



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 9 MAY 2018**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To: **Councillors J Cattanach (Chair), D Peart (Vice-Chair), I Chilvers, J Deans, M Jordan, R Packham, P Welch, L Casling and R Musgrave**

Agenda

- 1. Apologies for Absence**
- 2. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

- 3. Chair's Address to the Planning Committee**
- 4. Suspension of Council Procedure Rules**

The Planning Committee is asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6(a) for the committee meeting. This facilitates an open debate within the committee on the planning merits of the application without the need to have a proposal or amendment moved and seconded first. Councillors are reminded that at the end of the debate the Chair will ask for a

proposal to be moved and seconded. Any alternative motion to this which is proposed and seconded will be considered as an amendment. Councillors who wish to propose a motion against the recommendations of the officers should ensure that they give valid planning reasons for doing so.

5. Minutes (Pages 1 - 4)

To confirm as a correct record the minutes of the Planning Committee meeting held on 11 April 2018.

6. Planning Applications Received (Pages 5 - 6)

6.1. 2018/0107/FUL - Ashfield Farm, York Road, Stillingfleet, York (Pages 7 - 22)

Retrospective demolition of existing single storey agricultural building and proposed construction of a single bungalow dwelling

6.2. 2016/0492/MLA - Land Off Castle Close, Cawood, Selby (Pages 23 - 32)

Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0518/OUT Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west

6.3. 2017/0233/HPA - 1 Waterside Lodge, Oakwood Park, Market Weighton Road, North Duffield, Selby (Pages 33 - 44)

Proposed erection of 2 storey extension to include swimming pool to ground floor and bedroom with en-suite to first floor

6.4. 2017/1264/FUL - Ye Olde Sun Inne, Main Street, Colton, Tadcaster (Pages 45 - 62)

Retrospective application for a 3 year temporary permission to site a log cabin

6.5. 2018/0260/FUL - Low Farm, Low Farm Road, Bolton Percy, York (Pages 63 - 82)

Proposed erection of a four bedroom dwelling and garage

6.6. 2017/0772/OUTM - Land Off School Road, School Road, Hemingbrough, Selby (Pages 83 - 98)

Outline application including access (all other matters reserved) for residential development

6.7. 2016/1153/COU - The Venue, 72 Ousegate, Selby (Pages 99 - 116)

Retrospective change of use from A1 use (retail) to D2 (assembly and leisure)

G. Marshall

Gillian Marshall, Solicitor to the Council

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| <p>Dates of next meetings (5.00pm) Wednesday, 6 June 2018</p> |
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

Recording at Council Meetings

Recording is allowed at Council, Committee and Sub-Committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.

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Minutes

Planning Committee

| | |
|-------------------|--|
| Venue: | Council Chamber |
| Date: | Wednesday 11 April 2018 |
| Time: | 2.00pm |
| Present: | Councillors J Cattanach (Chair), E Casling, I Chilvers, M Jordan, R Musgrave, R Packham, D Peart, P Welch and D White. |
| Officers present: | Ruth Hardingham, Planning Development Manager, Kelly Dawson, Senior Solicitor, Alpha Love-Koh, Solicitor, Louise Milnes, Principal Planning Officer, Andrew Martin, Principal Planning Officer and Victoria Foreman, Democratic Services Officer |
| Public: | 5 |
| Press: | 1 |

66. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Deans. Councillor D White was in attendance as a substitute for Councillor Deans.

67. DISCLOSURES OF INTEREST

There were no disclosures of interest.

68. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair welcomed Councillor Musgrave, who had joined the Committee.

The Planning Development Manager updated the Committee on the outcome of a recent planning appeal at Field Lane, Thorpe Willoughby. The appeal had been dismissed by the Inspector.

69. SUSPENSION OF COUNCIL PROCEDURE RULES

The Committee considered the suspension of Council Procedure Rules 15.1 and 15.6 (a) to allow for a more effective discussion when considering planning applications.

RESOLVED:

To suspend Council Procedure Rules 15.1 and 15.6 (a) for the duration of the meeting.

70. MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 7 March 2018.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 7 March 2018 for signing by the Chairman.

71. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications:

71.1 Application: 2015/0969/OUT

Location: Manor Garth, Kellington, Goole, East Yorkshire

Proposal: Outline application with all matters reserved for residential development on land to the east of Manor Garth, Kellington

The Principal Planning Officer presented the application that had been brought to the Committee following consideration at the 11 May 2016 meeting, where Members resolved to support the Officer recommendation to grant planning permission subject to completion of a Section 106 Agreement to secure 40% on-site affordable housing provision and a waste and recycling contribution; no objections being received from the Strategic Flood Authority and any conditions received from the Strategic Flood Authority; and the conditions detailed in section 3 of the committee report.

Members noted that since the application had been considered in May 2016, there had been a number of changes to the Council's position in terms of the five year housing land supply. Furthermore, the Strategic Flood Authority had submitted objections following the previous resolution and further information had been submitted by the applicant in respect of flood risk, and the Strategic Flood Authority had been re-consulted. As such, Planning Committee were asked to re-consider the application in light of the material changes.

Members also noted that the application was an outline application with all matters reserved for residential development.

The Committee debated the application further and queried a number of issues, including further information from the Strategic Flooding Authority, visual impact, provision of play space and the impact of the five year housing land supply and development limits on the application.

It was proposed and seconded that the application be refused.

RESOLVED:

To REFUSE the application for reasons set out in paragraph 5.0 of the report.

71.2 Application: 2017/1329/MLA

Location: Main Road, Hambleton, Selby, North Yorkshire

Proposal: Request for a Deed of Variation to Section 106 agreement dated 2 December 2015 seeking a reduction in the proportion of affordable housing to be provided within scheme for 115 dwellings approved under references 2015/0105/OUT (outline) and 2017/0117/REMM (reserved matters)

The Principal Planning Officer presented the application that had been brought to the Committee due to it being a proposal to reduce the percentage of on-site affordable housing from the 40% agreed by Members in 2015.

Members noted that the application was a request for a Deed of Variation to Section 106 agreement dated 2 December 2015 seeking a reduction in the proportion of affordable housing to be provided within a scheme for 115 dwellings.

Paul Butler, agent, spoke in support of the application.

The Committee debated the application further and asked the officer a number of questions on the application, including the matters of abnormal costs, the Council's policy on affordable housing and the commissioning of viability advice. Concern was expressed by some Members regarding the delay in the negotiations around the level of affordable housing that would be accepted in the development.

It was proposed and seconded that the application be approved.

RESOLVED:

- i. To approve the request for a Deed of Variation on the basis that the overall provision of affordable housing be reduced to 20%, but with the original tenure split remaining unchanged.**
- ii. That the Deed of Variation remain effective for a period of three years from the date of first occupation of the 115 dwellings, with any dwellings completed after that date being subject to the provisions of the original section 106 agreement.**

The meeting closed at 2.45pm.

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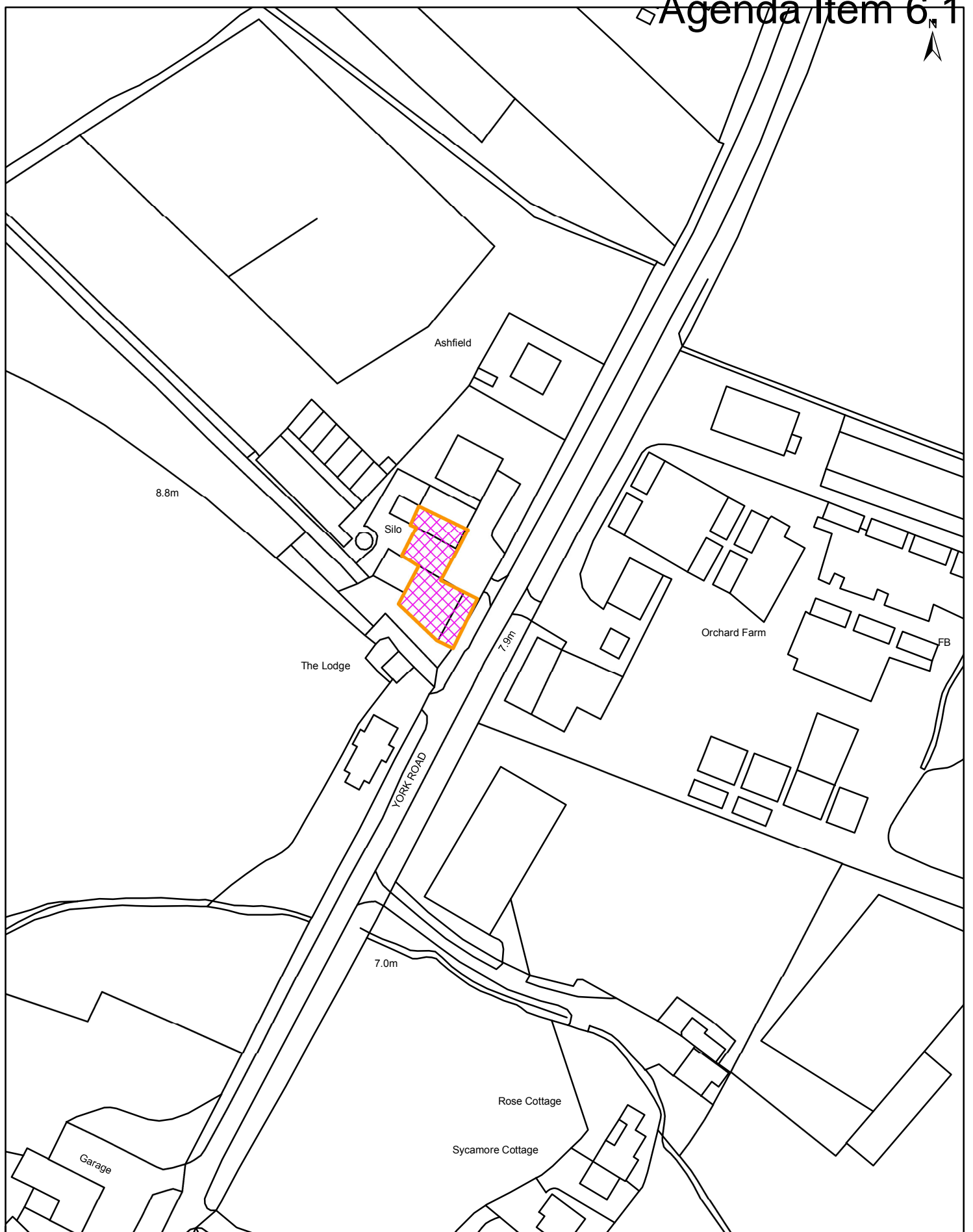
Agenda Item 6

Items for Planning Committee

9 May 2018

| Item No. | Ref | Site Address | Description | Officer | Pages |
|----------|----------------|--|---|---------|--------|
| 6.1 | 2018/0107/FUL | Ashfield Farm, York Road, Stillingfleet, York | Retrospective demolition of existing single storey agricultural building and proposed construction of a single bungalow dwelling | JETY | 7-22 |
| 6.2 | 2016/0492/MLA | Land Off Castle Close, Cawood, Selby | Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0518/OUT Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west | FIEL | 23-32 |
| 6.3 | 2017/0233/HPA | 1 Waterside Lodge, Oakwood Park, Market Weighton Road, North Duffield, Selby | Proposed erection of 2 storey extension to include swimming pool to ground floor and bedroom with en-suite to first floor | KETH | 33-44 |
| 6.4 | 2017/1264/FUL | Ye Olde Sun Inne, Main Street, Colton, Tadcaster | Retrospective application for a 3 year temporary permission to site a log cabin | KETH | 45-62 |
| 6.5 | 2018/0260/FUL | Low Farm, Low Farm Road, Bolton Percy, York | Proposed erection of a four bedroom dwelling and garage | FIEL | 63-82 |
| 6.6 | 2017/0772/OUTM | Land Off School Road, School Road, Hemingbrough, Selby | Outline application including access (all other matters reserved) for residential development | LOMI | 83-98 |
| 6.7 | 2016/1153/COU | The Venue, 72 Ousegate, Selby | Retrospective change of use from A1 use (retail) to D2 (assembly and leisure) | LOMI | 99-116 |

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APPLICATION SITE

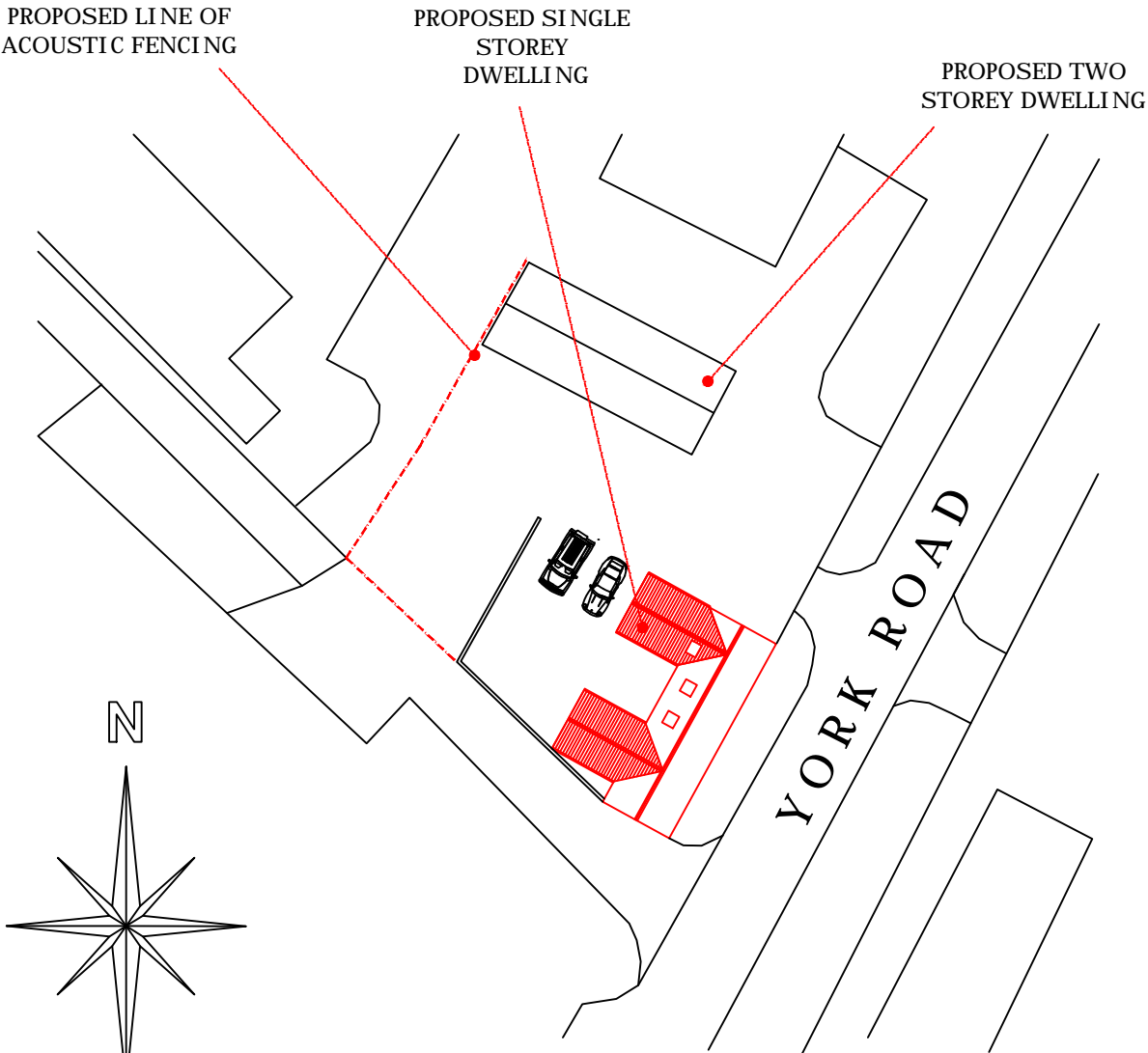
Ashfield Farm, York Road, Stillingfleet
2018/0107/FUL

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|------------------|
| RECEIVED |
| 05/02/2018 |
| BUSINESS SUPPORT |



BLOCK / ROOF PLAN : 1 / 500

Page 9

APPLICANT:
MR & MRS T. NIGHTINGALE
ASHFIELD FARM,
YORK ROAD, STILLINGFLEET.
NEAR YORK. YO19 6HW.

PROJECT :
PROPOSED CONVERSION OF
EXISTING FARM BUILDINGS
TO RESIDENTIAL.

DRAWING TITLE :
PROPOSED ROUTE OF
2M HIGH ACOUSTIC FENCING

DATE:
SEPTEMBER. 2017

Revision :

SCALE : 1:500

DWG No: H/CON/09/17/SK19

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To: Planning Committee
Date: 9 May 2018
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

| | | | |
|---------------------|--|-----------------------------|---------------------------------|
| APPLICATION NUMBER: | 2018/0107/FUL | PARISH: | Stillingfleet Parish Council |
| APPLICANT: | Mr Tony Nightingale | VALID DATE: EXPIRY DATE: | 5 February 2018 2 April 2018 |
| PROPOSAL: | Retrospective demolition of existing single storey agricultural building and proposed construction of a single bungalow dwelling | | |
| LOCATION: | Ashfield Farm York Road Stillingfleet York YO19 6HW | | |
| RECOMMENDATION: | APPROVE | | |

This application has been brought before Planning Committee as the application is a departure from the Development Plan, but there are material considerations which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of Stillingfleet, which is a Secondary Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 1.2 The application site formerly comprised 2No. agricultural buildings, which gained approval under a prior notification application (reference: 2016/0684/ATD) to be converted into 2No. residential dwellings. Works to one of the agricultural buildings, subject of this application, has now commenced.
- 1.3 To the south east of the application site is an existing dwelling, The Lodge, and to the north east of the application site is a residential property, Ashfield Farm. To the north west of the application site retrospective planning permission has been

granted for the change of use of the land to pheasant rearing under reference 2016/0767/COU.

The Proposal

- 1.4 The application seeks retrospective planning permission for the demolition of an existing agricultural building and proposed erection of 1No. single dwelling. Although there was a previous consent for conversion of the building to a dwelling under an ATD application, the current application seeks a larger dwelling than that approved. Furthermore as works have commenced they could not be considered under a further ATD application. It is for this reason that the application has been submitted as a full application.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- Application reference CO/1976/00049 for the roofing of a fold yard was approved on 04.08.1976.
 - Application reference CO/1989/00205 for the erection of a detached three bedroom dwelling was refused on 09.01.1989.
 - Application reference CO/1989/0297 for the erection of a detached bungalow and double garage was refused on 23.06.1989
 - Application reference CO/1992/0265 for the temporary siting of wooden huts for the rearing of pheasant during the period 1 May to 31 August was approved on 23.07.1992.
 - An agricultural notification reference PN/1993/013 for the erection of an agricultural building was refused on 30.04.1993.
 - An application reference CO/1993/0220 for the erection of an agricultural building for use as a farm machinery store was approved on 19.08.1993.
 - An application reference CO/1994/00207 for the erection of an agricultural storage building was approved on 06.09.1994.
 - An outline application reference CO/1998/0255 for the erection of an agricultural workers bungalow was refused on 25.06.1998.
 - A prior notification application reference 2016/0684/ATD for the change of use of 2No. agricultural buildings to 2No. residential dwellings was approved on 22.08.2016.
 - A retrospective application reference 2016/0767/COU for the change of use of land to pheasant rearing was approved on 28.10.2016.
 - An application reference 2017/1278/DOC for the discharge of conditions 02 (noise), 03, 04, 05, 06 and 07 (site investigation) of approval 2016/0684/ATD Prior notification for the change of use of 2No. agricultural buildings to 2No. residential dwellings was part approved on 01.02.2018.
 - A prior notification application reference 2017/1284/ATD for the change of use of agricultural building to 1 No bungalow was refused on 23.01.2018.

2. CONSULTATION AND PUBLICITY

(All immediate neighbours were informed by letter, a site notice was erected and statutory consultees notified)

- 2.1 **Parish Council** – No objections, although there is concern that some strange dwellings may appear in the countryside if consent is given in future to convert dutch barns into houses.
- 2.2 **NYCC Highways** – No objections.
- 2.3 **Environmental Health** – No objections.
- 2.4 **Yorkshire Water** – No response within statutory consultation period.
- 2.5 **The Ouse & Derwent Internal Drainage Board** – No objections, subject to three conditions relating to: 1) drainage works to be agreed prior to commencement of development; 2) evidence of existing surface water discharge; and 3) surface water to adjacent watercourse.
- 2.6 **North Yorkshire Bat Group** – No response within statutory consultation period.
- 2.7 **Natural England** – No response within statutory consultation period.
- 2.8 **Contaminated Land Consultant** – No objections, subject to two conditions relating to: 1) verification of remedial works; and 2) reporting of unexpected contamination.
- 2.9 **Neighbour Comments** – No letters of representation from neighbouring properties have been received.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits of Stillingfleet, which is a Secondary Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 3.2 The application site comprises potentially contaminated land resulting from past uses for agriculture/nurseries.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not

change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

3.5 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP5 – The Scale and Distribution of Housing
- SP9 – Affordable Housing
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.7 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

Other Policies and Guidance

3.8 Affordable Housing Supplementary Planning Document

4. APPRAISAL

4.1 The main issues to be taken into account when assessing this application are:

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination

- Affordable Housing

The Principle of the Development

- 4.2 The application site is located outside the defined development limits of Stillingfleet, which is a Secondary Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 4.3 Policy SP2A(c) of the Core Strategy states that “Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”
- 4.4 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 4.5 One such material consideration is that a prior notification application for the change of use of 2No. agricultural buildings to 2No. residential dwellings at Ashfield Farm, York Road, Stillingfleet was permitted under reference 2016/0684/ATD on 22 August 2016. Under that application, the proposals were considered to meet the relevant criteria under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Local Planning Authority determined that prior approval was not required in respect of 1) transport and highways impacts of the development; 2) noise impacts of the development; 3) contamination risks on the site; 4) flooding risks on the site; 5) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Class Order; and 6) the design or external appearance of the building; subject to conditions.
- 4.6 The approved works to one of the agricultural buildings under approval reference 2016/0684/ATD, which is also subject of this application, included the conversion of the brick built part of the agricultural building, with the addition of a brick built extension to the north west elevation to be created under the brick/timber boarding built part of the existing agricultural building, which was then to be demolished as part of the proposal.
- 4.7 Following the determination of prior approval application reference 2016/0684/ATD, the applicants decided that they wished to make alterations to the approved scheme with the inclusion of an additional brick built extension to the north west elevation, under the brick/timber boarding built part of the agricultural building. The applicants were advised that they would need to submit a further prior approval application.
- 4.8 A further prior notification application for the change of use of 1No. agricultural building to 1No. residential dwelling at Ashfield Farm, York Road, Stillingfleet was therefore submitted, reference 2017/1284/ATD. However, in assessing that

application, it was noted that works had already commenced on site, on 1 November 2017, prior to the submission of the application. Case law demonstrates that where a commencement has been made the proposals cannot satisfy the requirements of Schedule 2, Part 3, Class Q. The prior notification application was therefore refused and the applicants were advised that they would need to carry out the works in accordance with the previous approval, reference 2016/0684/ATD, or if they wished to make changes to the approved scheme they would need to apply for planning permission, hence the current application.

- 4.9 The current application therefore seeks retrospective planning permission for the demolition of an existing agricultural building and proposed erection of 1No. single dwelling. The dwelling would be as per that applied for under prior approval application 2017/1284/ATD, which was refused on the basis that the works had already commenced.
- 4.10 It is noted that during a site visit, only the walls of the residential dwelling granted permission under prior approval 2016/0684/FUL were in place, including those of the brick built part of the agricultural building and the extension to the north west elevation. The applicants have advised that during the works to the existing brick built part of the agricultural building, the building collapsed as it was not structurally sound, which is contrary to the findings of the structural report submitted within the prior notification application, reference 2016/0684/ATD. As such, the applicants advised that they were required to re-build the walls using the existing bricks, which is the stage they were at during the site visit. Further, the brick/timber built part of the agricultural building had been demolished, as per 2016/0684/ATD.
- 4.11 The applicants have advised that if planning permission were to be refused for the current application, they would continue works under prior approval application, reference 2016/0684/ATD, which represents a fall-back position of significant weight. The only difference between the resultant residential dwelling granted permission under reference 2016/0684/ATD and under the current application is the inclusion of an additional extension to the north west elevation, to mirror the existing one.
- 4.12 Having regard to the fall-back position, which would result in a dwelling of similar size and scale in this location, it is considered that the proposal is acceptable in principle.

Design and Impact on the Character and Appearance of the Area

- 4.13 The application proposes the erection of a detached bungalow, which would replace an existing brick built agricultural building, with the inclusion of two single storey projections to the north west elevation, which would be constructed of materials to match the existing building. The proposed dwelling would have a similar appearance to the residential dwelling granted approval under reference 2016/0684/ATD, with the additional inclusion of an additional brick built extension to the north west elevation of a similar size and scale to the one already approved under application reference 2016/0684/ATD.
- 4.14 Having regard to the above, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with

Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.15 To the south east of the application site is an existing dwelling, The Lodge, and to the north east of the application site is a residential property, Ashfield Farm. To the north west of the application site retrospective planning permission has been granted for the change of use of the land to pheasant rearing under reference 2016/0767/COU.
- 4.16 In terms of the impact of the development on the residential amenities of neighbouring properties, given the size, siting and design of the development in relation to neighbouring properties, it is not considered that the proposals would result in any significant adverse effects of oppression, overshadowing or overlooking so as to adversely affect the amenities of the occupiers of any neighbouring properties.
- 4.17 In terms of the residential amenity of the future occupiers of the dwelling, it is noted that under the prior notification approval, reference 2016/0684/ATD, the Environmental Health Officer advised that the change of use of the land to the north west of the application site to pheasant rearing, under reference 2016/0767/COU, would give rise to the potential for a detrimental impact on residential amenity of the future occupiers of the development due to noise. As such, it was considered reasonable and proportionate to attach a condition requiring details of mitigation measures, such as an acoustic fence, to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. It is noted that a discharge of condition application has been submitted in respect of Condition 2 (noise mitigation measures) of approval 2016/0684/ATD, under application reference 2017/1278/DOC. This concluded that the position of the acoustic fencing shown on drawing no. H/CON/09/17/SK19, was acceptable and the details of the acoustic fencing provided with discharge of condition application reference 2017/1278/DOC, including an Acoustic Fencing – Advice on Specification Document received on 17 January 2018 and produced by Sharps Redmore Partnership were acceptable. A condition could be attached to any planning permission granted requiring the development to be carried out in accordance with these details in the interests of the residential amenity of future occupiers.
- 4.18 Subject to the aforementioned condition, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.19 The proposed dwelling would benefit from a vehicular access onto York Road and would benefit from on-site car parking to the rear of the dwelling.
- 4.20 NYCC Highways have been consulted on the proposals and have not raised any objections or recommended any conditions. However, it is noted that the previous approval, reference 2016/0684/ATD included a condition requiring no part of the development to be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance approved

drawings and maintained clear of any obstruction and retained for their intended purpose at all times in order to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development. It is considered reasonable and necessary to attach such a condition to any planning permission granted in the interests of highway safety and the general amenity of the development.

Flood Risk and Drainage

- 4.21 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.22 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, while foul sewage would be disposed of via septic tank. The Ouse and Derwent Internal Drainage Board, Yorkshire Water and Environmental Health have been consulted on the proposals.
- 4.23 In terms of surface water drainage, the Ouse and Derwent Internal Drainage Board acknowledge the applicants intention to use an existing watercourse for the disposal of the surface water from the development and note that the submitted location plan (drawing no. H/CON/09/17/SK20) shows a proposed connection to an unnamed watercourse some distance to the north east of the site. The Board advise that their preference would always be the use of sustainable methods of surface water disposal, wherever possible retaining the water on site. However, the Board advise that if an existing watercourse is to be used (directly or indirectly) then in order to reduce the risk of flooding, the Board would seek that the applicant demonstrate that there is currently operational and positive drainage on the site and a proven connection to the watercourse. In addition the Board would seek that the applicant demonstrate that they have any necessary consents and permissions for any asset that they intend to use and that the relevant asset has sufficient capacity to handle the proposed discharge. Where a connection to a watercourse is proposed, the Board would want the rate of discharge constrained at the "greenfield" rate (1.4 l/s/ha), plus an allowance for any "brownfield" areas of the site which are currently impermeable (at the rate of 140 l/s/ha) less 30%. With storage calculations to accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm event. All calculations should include a 20% allowance for climate change. Having regard to the above, the Board recommend three conditions relating to: 1) drainage works to be agreed prior to commencement of development; 2) evidence of existing surface water discharge; and 3) surface water to adjacent watercourse. As development has already commenced, a condition could be worded to require these details to be submitted to and approved by the Local Planning Authority within a specified time period.
- 4.24 In terms of foul sewage, the Ouse and Derwent Internal Drainage Board note that the submitted location plan (drawing no. H/CON/09/17/SK20) advises that discharge from the treatment chamber will go to the adjacent watercourse. The Board advise that if the septic tank is an existing facility they would seek confirmation of the condition, location and effective operation of this facility to ensure that it will provide an effective route for the disposal of the foul water from the site. The Board advise that it would not consent any discharge of untreated foul water from a septic tank arrangement into any watercourse in the Drainage Boards

district. Should some form of package treatment plant be used to process the foul sewage from the site, the Board would wish to make the applicant aware that it does not wish to see flow rates increase in its land drainage systems which can arise from cumulative small flows from multiple small discharges. In addition the disposal of treated sewage effluent is not the intended function of the land drainage network. A condition could be attached to any planning permission requiring details of foul water disposal to be submitted to and approved in writing with the Local Planning Authority within a specified time period. Yorkshire Water and Environmental Health have not raised any objections.

- 4.25 Officers also consider it reasonable and necessary to attach a condition to any planning permission granted requiring the site to be developed with separate systems of drainage for foul and surface water on and off site.

Nature Conservation and Protected Species

- 4.26 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.27 The application site is not a protected site for nature conservation and is not known to support, or be in close proximity to, any site supporting protected species or any other species or habitat of conservation interest.
- 4.28 Given the above, it is considered that the proposal would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Land Contamination

- 4.29 The application has been supported by a Geoenvironmental Appraisal Report No. C232, dated November 2017 and a Remediation Strategy Report No. C232/2 dated January 2018, both received by the Local Planning Authority on 5 February 2018. These have been assessed by the Councils Contaminated Land Consultant, who has advised that there are no objections, subject to two conditions relating to the verification of remedial works and the reporting of any unexpected contamination.

Affordable Housing

- 4.30 Policy SP9 of the Core Strategy outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 4.31 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Legal Issues

4.32 Planning Acts

This application has been determined in accordance with the relevant planning acts.

4.33 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

4.34 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

4.35 Financial issues are not material to the determination of this application.

5. CONCLUSION

5.1 The application seeks retrospective planning permission for the demolition of an existing agricultural building and proposed erection of 1No. single dwelling.

5.2 The application is contrary to Policy SP2A(c) of the Core Strategy. However, the applicants have advised that if planning permission were to be refused for the current application, they would continue works under prior approval application, reference 2016/0684/ATD, which represents a fall-back position of significant weight. The only difference between the resultant residential dwelling granted permission under reference 2016/0684/ATD and under the current application is the inclusion of an additional extension to the north west elevation, to mirror the existing one. Having regard to the fall-back position, which would result in a dwelling of similar size and scale in this location, it is considered that the proposal is acceptable in principle.

5.3 The proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, flood risk and drainage, nature conservation and protected species, land contamination or affordable housing.

6. RECOMMENDATION

This application is recommended to be APPROVED subject to the following conditions:

01. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:

H/CON/09/17/SK20 – Location Plan
H/CON/09/17/SK19 – Proposed Site Plan
001 - Existing Floor Plan
002 – Existing Elevations
003 – Existing Elevations
B/CON/01/18/01 – Proposed Floor Plans and Elevations
B/CON/01/18/02 – Proposed Sections

Reason:

For the avoidance of doubt.

02. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building in colour and texture.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

03. Prior to the first occupation of the development hereby approved, the acoustic fence shown on drawing no. H/CON/09/17/SK19, shall be implemented in accordance with the details approved under discharge of condition application reference 2017/1278/DOC, including an Acoustic Fencing – Advice on Specification Document received on 17 January 2018 and produced by Sharps Redmore Partnership. Once implemented, the acoustic fence shall be maintained and retained as such for the lifetime of the development.

Reason:

In the interests of the general amenity of the development.

04. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference: drawing number H/CON/09/17/SK19). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

05. Within three months of the date of this decision, full details of the proposals for the disposal of foul sewage and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall be implemented.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

06. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage, in order to comply with Policy ENV1 of the Selby District Local Plan.

07. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and be subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

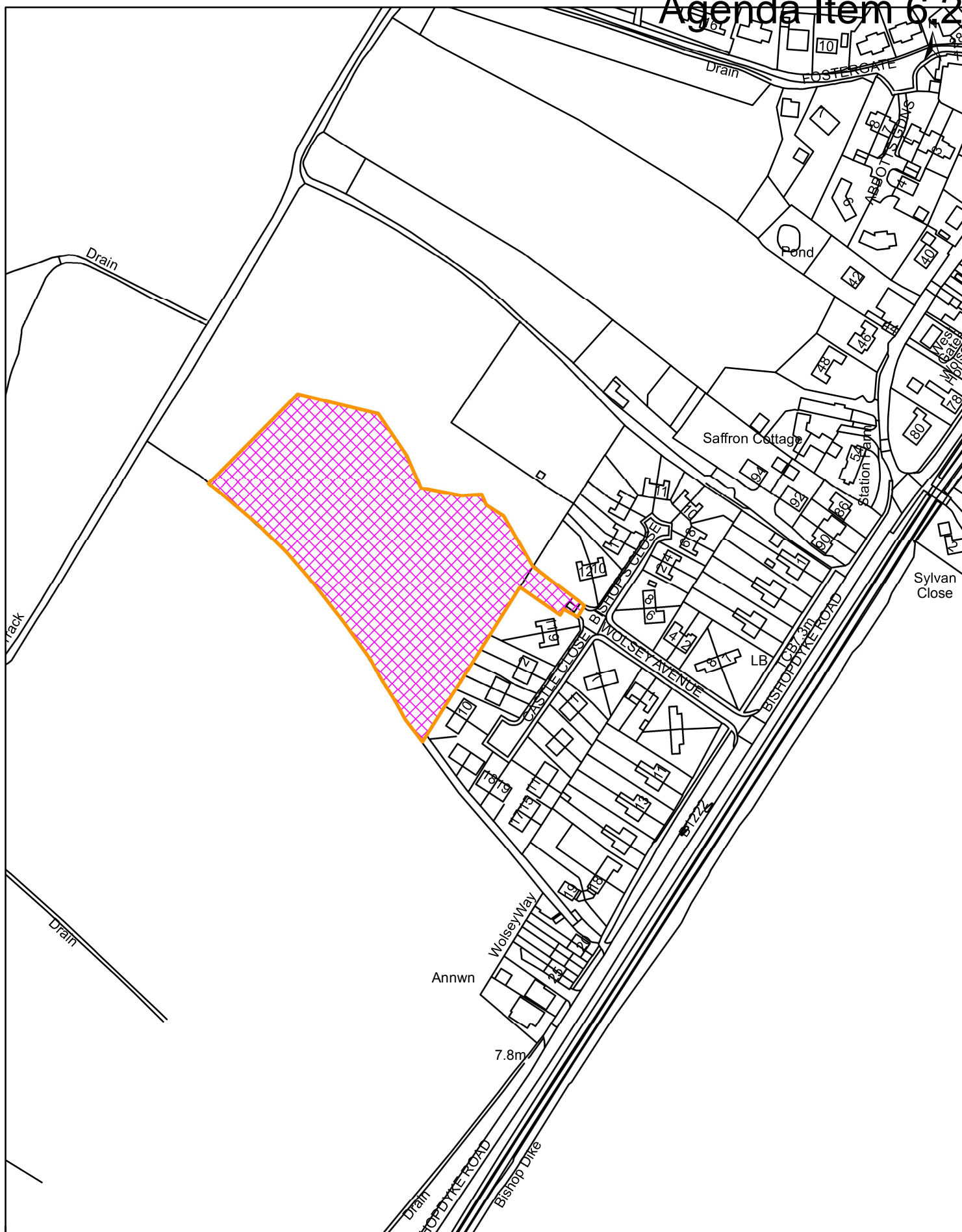
08. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None



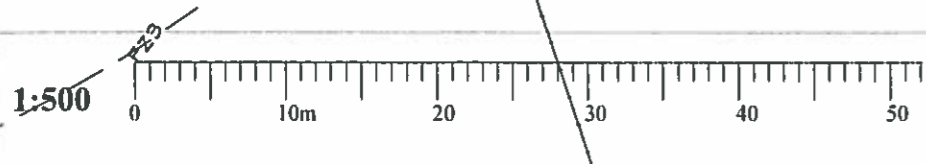
APPLICATION SITE

Castle Close, Cawood
2016/0492/MLA

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RECEIVED
27 Oct 2015
BUSINESS SUPPORT

**AMENDED
DRAWING**

Page 25



Amendments

- a March 15 refuse vehicle turning shown plot 8 repositioned further from the adjacent bungalows
- b April 15 play space increased to compensate for loss of extg
- c Oct 15 drainage shown

BRIAN SCOTT DESIGNS LLP
Blacksmiths Cottage, Station Rd.,
Wistow, Selby, North Yorkshire, YO8 8UZ
Tel: (01757) 268054
email: info@brianscottedesigns.com

Client: **Mr. D. Fulleyn**
Bottany Bay Cottages
Common Road
Barlow, Selby.

Project: Land behind Castle Close and Bishops Close, Cawood.

Drawing: Planning drawing
Proposed Siteplan

| | |
|---------------|---------------------------------|
| Date: Feb' 15 | Drawing No: 1518 siteplan 500/c |
| Scale: 1:500 | Sheet size: A3 |

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To: Planning Committee
Date: 9 May 2018
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

| | | | |
|---------------------|---|-----------------------------|------------------------------|
| APPLICATION NUMBER: | 2016/0492/MLA | PARISH: | Cawood Parish Council |
| APPLICANT: | Daniel Gath Homes | VALID DATE: EXPIRY DATE: | 28 April 2016 26 May 2016 |
| PROPOSAL: | Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0518/OUT Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west | | |
| LOCATION: | Land off Castle Close, Cawood, Selby, North Yorkshire | | |

This application has been brought before Planning Committee for consideration due to the applicant seeking a lower affordable housing contribution than what Members agreed to on the original outline consent planning reference: 2015/0518/OUT which was a 40% on-site affordable housing contribution.

Summary:

Outline Planning permission 2015/0518/OUT was granted for a residential development of 17 dwellings (access and layout included and all other matters reserved) on land off Castle Close, Cawood on the 3rd December 2015. Under Section 106BA of the Planning Act 1990 developers were able to seek to modify their obligations that may have been agreed with local planning authorities. In this case the applicant has sought to modify the agreement so that they can provide less affordable housing on site. Such cases should be determined on the basis of what amount of affordable housing can be accommodated without making the scheme unviable. The evidence used is therefore financial in nature and the Council sought the input from the District Valuer to provide specialist advice. The application has sought to initially reduce the on-site 40% affordable housing contribution to zero. However, the applicant has now agreed a contribution of 23.5% on-site affordable housing as advised by the DVS which the scheme can viably provide and equates to 4 Affordable Housing Units.

Recommendation

The application is recommended to be APPROVED subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to reduce the on-site affordable housing contribution to 23.5%. This variation shall be time limited for a period of 3 years from the date of the decision.

Reasons for recommendation

To establish a level of affordable housing consistent with maintaining the viability of this scheme, thereby allowing it to proceed unhindered to completion and securing its contribution to the District's 5-year supply of housing.

1. Introduction and background

1.1 The following historical applications are considered to be relevant to the determination of this application.

2015/0375/OUT (WDN - 13.05.2015) Outline application including access and layout for residential development of 17 dwellings with garages, creation of access road and associated public open space on land to the North West of Castle Close off Wolsey Avenue

Planning permission 2015/0518/OUT was issued on the 3 December 2015 for the following:

"Outline planning permission for residential development (access and layout to be approved, all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west."

The permission was subject to a S106 agreement securing the delivery of

- Affordable Housing On Site at 40% of Units arising from the development
- Provision of On Site Recreational Open Space
- Waste and Recycling Contribution

2. Policy Context

2.1 The relevant development plan policy is SP9 of the Selby District Core Strategy. The pre-ambles to Core Strategy policy SP9 acknowledges that securing 40% affordable housing is a "*challenging target*" and that provision from this source will be heavily dependent upon economic circumstances and the health of the private housing market at any one time. It is also acknowledged that "*to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, should enable the development to be deliverable.*" This echoes advice in the paragraph 173 of the NPPF which states:

"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost

of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”

Scope of Submissions and Consideration under S106BA

- 2.2 The Growth and Infrastructure Act inserted Sections 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduced a new application and appeal procedure for the review of planning obligations on planning permissions which related to the provision of affordable housing. Obligations which include a "requirement relating to the provision of housing that is or is to be made available for people whose needs are not adequately served by the commercial housing market" are within scope of this new procedure.
- 2.3 In April 2013 the Department of Communities and Local Government (DCLG) issued a Guidance Document entitled "Section 106 affordable housing requirements", and sets the context for the associated legalisation. It notes that:
- "The Government encourages a positive approach to planning to enable appropriate, sustainable development to come forward wherever possible. The National Planning Policy Framework establishes that the planning system ought to proactively drive and support sustainable economic development. It also requires that local planning authorities should positively seek to meet the development needs of their area.*
- Unrealistic Section 106 agreements negotiated in differing economic conditions can be an obstacle to house building. The Government is keen to encourage development to come forward, to provide more homes to meet a growing population and to promote construction and economic growth. Stalled schemes due to economically unviable affordable housing requirements result in no development, no regeneration and no community benefit. Reviewing such agreements will result in more housing and more affordable housing than would otherwise be the case".*
- 2.4 It is also stated in the Guidance that "The application and appeal procedures do not, in any way, replace existing powers to renegotiate Section 106 agreements on a voluntary basis. The application and appeal procedure will assess the viability of affordable housing requirements only. It will not reopen any other planning policy considerations or review the merits of the permitted scheme."
- 2.5 The ability to make submissions under the above noted sections was subject to subject to a 'sunset clause' killing off the changes after 30 April 2016 unless otherwise extended.
- 2.6 On the 11th April 2016 DCLG confirmed that any application or appeal underway as of the 30th April 2016 under section 106BA should still be considered by the Local Planning Authority or Planning Inspectorate.
- 2.7 Although the ability to make a new application under S106BA no longer exists, this application has been on hold at the applicants request due to the developer withdrawing from the scheme. The landowner, sought to continue with the application and the lengthy time has been due to negotiations between the owner and the previous developer over information, the need for updated information and re-consultation with the District Valuer.

3.0 Assessment

Summary of Appellants Case on Submission under S106BA

- 3.1 The applicant in their supporting statement argue that the current returns at 40% affordable housing provision renders the site unviable and it is therefore a

significant barrier to the delivery of the development within the five year period including that of market and affordable housing.

- 3.2 An updated viability assessment was prepared by GNEC on behalf of the applicants which continues to assess the site as unviable unless there is no affordable housing. The DVS have been re-consulted. All the viability information submitted by the applicants is marked as confidential and commercially sensitive and has not been placed on public file. However, some certain information is released in order to aid Members consideration.

Advice from District Valuer (DVS) to Local Planning Authority

- 3.3 The DVS previously assessed the viability of this scheme in June 2016 on the basis of the information submitted by the original developer. The conclusion at that time was that the scheme could viably support the on-site provision of 40% affordable homes, the required waste & recycling contributions together with a ransom strip payment.
- 3.4 Since the original viability assessment time there has been two appeal decisions (York Road in Barby and Flaxley Road in Selby) in relation to viability in this District Council and more specifically relating to the appraisal inputs of profit and benchmark land value and there has also been ongoing negotiations in connection with the ransom strip (for which the Council are the beneficiary).
- 3.5 The ransom strip payment is in relation to land owned by Selby District Council and which is required in order to access the site. The site comprises a rectangular field, the field is landlocked and there is only one plausible point of access being via the site of the two timber garages/ domestic outbuilding that have fallen into disrepair located between 11 Castle Close and 12 Bishop's Close, this access is owned by Selby DC.
- 3.6 This has been independently valued for SDC and that valuation has been accepted by the applicants. A revised viability appraisal has been received which incorporated into their updated viability assessment the agreed value of the ransom strip and the implication for profit and benchmark values from the above appeal decisions.
- 3.7 Following submission of the updated Viability Appraisal to the Authority in August 2017 the DVS District Valuer (Cecilia Reed) was instructed to review the updated submission and to advise the Council.
- 3.8 Advice received from the DVS set out a number of areas of agreement and some areas of disagreement, the greatest being the impact of the ransom on the land value and thus the viability. Another main area of difference is the Gross Development Value (GDV) in which the applicants figure incorrectly does not include affordable housing. Generally the applicants assessment on market value, construction costs, contingency costs professional costs are broadly in agreement. The DVS also consider a flaw to be the fact that the applicants' surveyor has not adjusted the land value for the cost of the ransom.
- 3.9 The DVS ultimately concluded that a scheme fully compliant with planning policy (40%) is now unviable. However the DVS concluded that this scheme can viably

provide the whole of the required Section 106 contributions and 23.5 % on site affordable housing (equating to 4 of the 17 units proposed). The DVS opinion takes into account the recent planning appeal decisions approach to the appraisal inputs of profit and benchmark land value advised by the Inspector in the recent appeal decisions.

- 3.10 The DVS conclusion on the 23.5% is on the basis that the abnormal costs identified by the applicant are correct. They state that the level of abnormal costs which have been identified by the applicant do impact on the viability of the scheme and its ability to comply with the planning policy requirements of the Local Authority. The abnormal costs arise from 'renewables' and 'flood resilience measures' which are a consequence of requirements under the planning permission and so these are accepted. The remaining abnormal costs are a net figure per developable acre and are stated to 'appear reasonable' by the DVS with the caveat that the professional integrity of the applicants surveyor is relied upon. It is suggested that if viability is contested (either now or at appeal) and abnormal costs be a significant contributing factor, the matter could be independently reviewed by a DVS Quantity Surveyor or another advisor to the Council. Re-appraisal is advised in the event that construction work commences beyond 12 months from the date of the report in case market conditions have changed. If on-site AH housing provision is preferred to other contributions such as open space, then a re-appraisal would also be necessary.
- 3.11 The applicant is prepared to accept the recommended 23.5% contribution without a further viability rebuttal. As such, given the small scale of this development and the high costs of a further appraisal by a QS of elements which are stated to appear reasonable by the DVS it is considered reasonable to accept the DVS recommendation in this case. As such it is officer opinion that no further review by a QS is necessary or should be required at this stage unless the applicant decides to appeal this decision.

4.0 Conclusion

- 4.1 Criteria B of Policy SP9 of the CS sets out that in pursuit of the aim to achieve 40/60% affordable/general market housing ratio, the Council will negotiate for on-site provision of affordable housing up to the maximum of 40% of total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3 ha) or more. Officers consider that this approach is in accordance with relevant local and national policy and guidance.
- 4.2 Negotiations have taken place and on the basis of the applicants updated viability appraisal and the response of the DVS; it is considered that the provision of 4 affordable housing units at a rate of 23.5% of the total new dwellings is acceptable and consistent with the aims of Policy SP9 of the CS.
- 4.3 Given the above, Officer's therefore consider that a pragmatic approach should be taken to agree a contribution of 23.5% for on-site affordable housing which would also ensure that a significant barrier to the delivery of this development within the five year period is reduced.

5.0 Recommendation

The application is recommended to be **APPROVED** and subject to delegation being given to Officers to complete the Deed of Variation to the original Section 106 agreement to reduce the on-site affordable housing to 23.5%. This variation shall be time limited for a period of 3 years from the date of the decision.

6.0 Legal Issues

6.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

6.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

6.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

7.0 Financial Issues

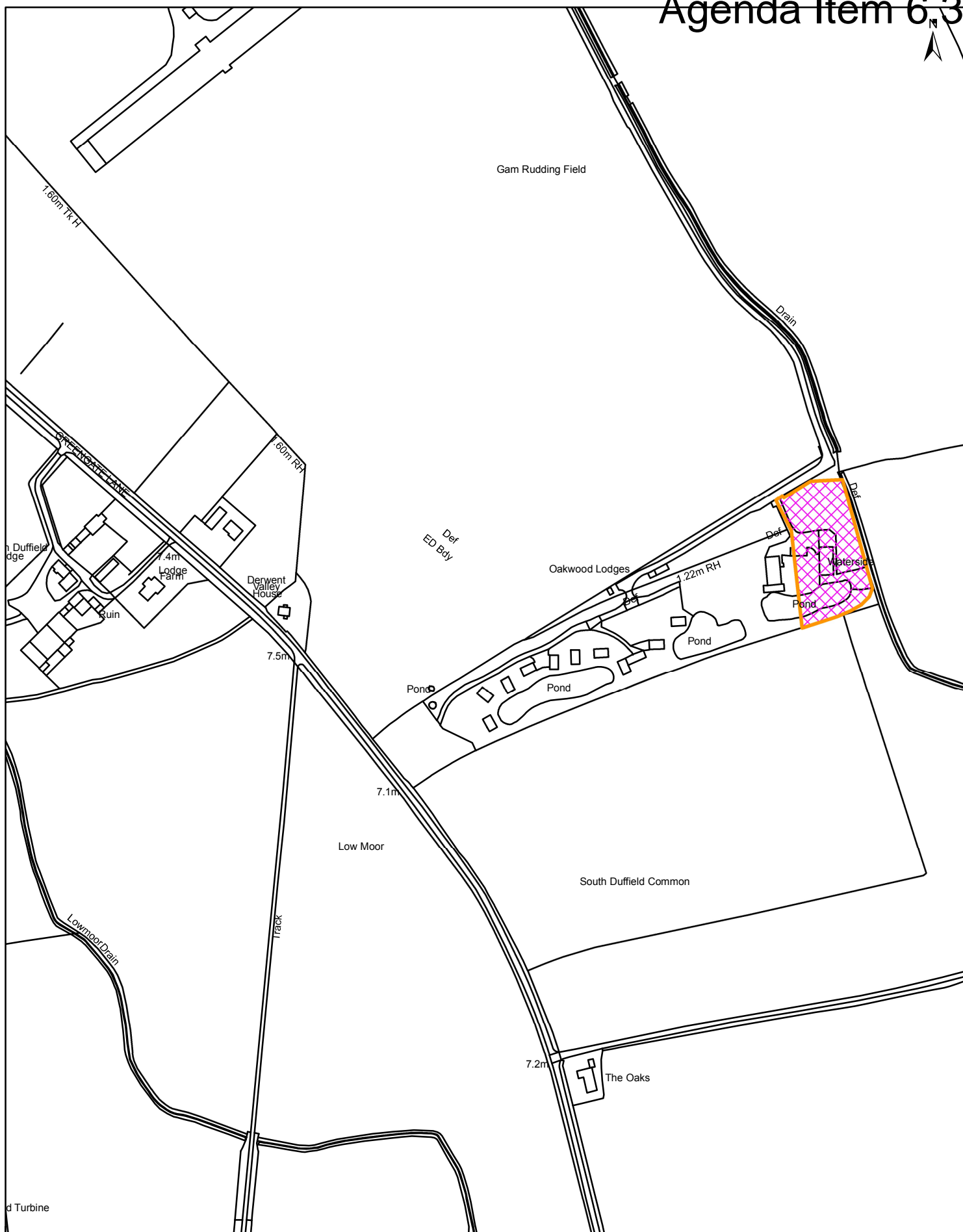
7.1 Financial issues are not material to the determination of this application.

8.0 Background Documents

8.1 Planning Application file references 2015/0518/OUT and 2016/0492/MLA and associated documents.

Contact Officer: Fiona Ellwood, Principle Planning Officer

Appendices: None



APPLICATION SITE

1 Waterside Lodge, Oakwood Park, Market Weighton Road W,
North Duffield

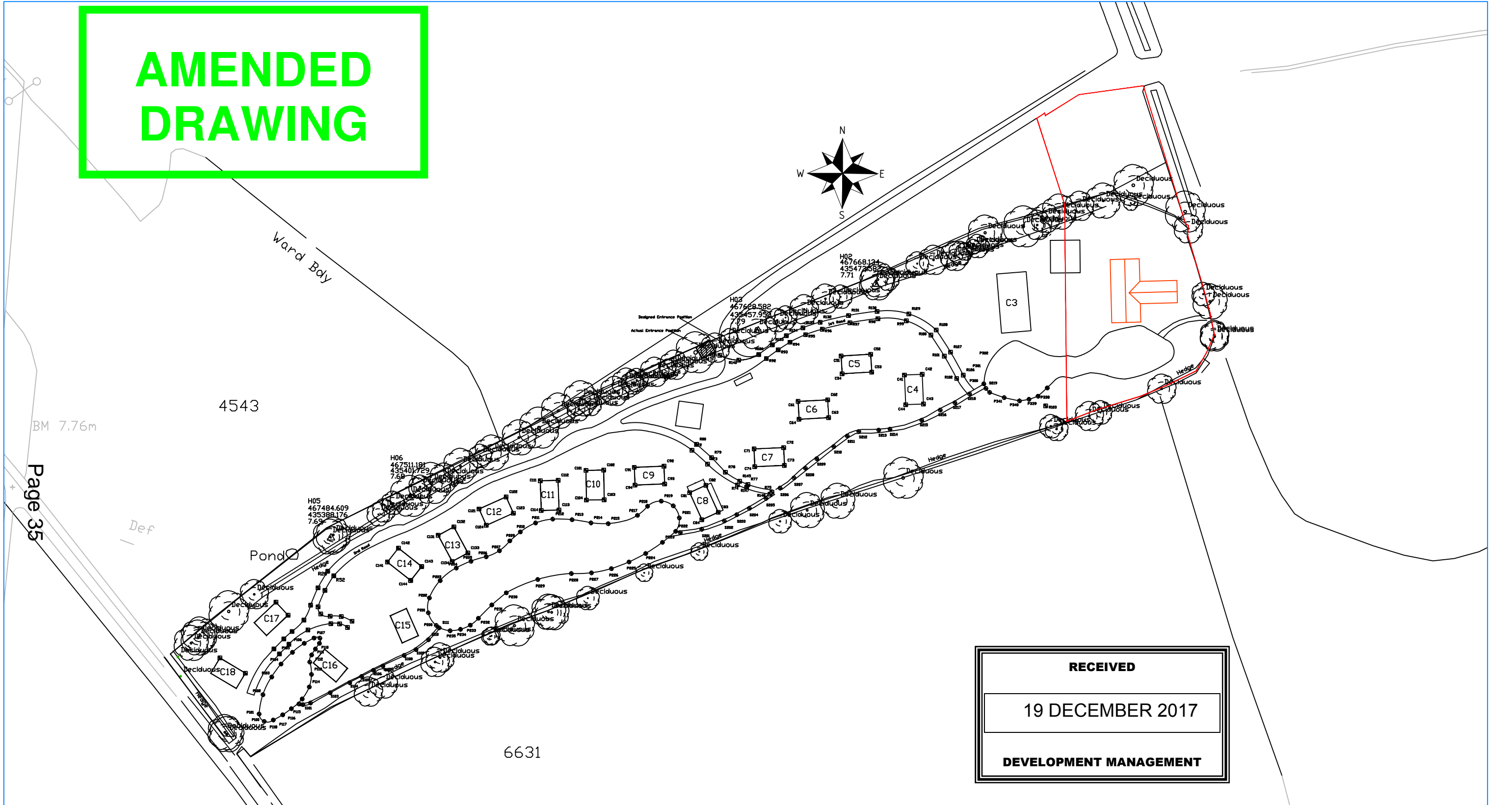
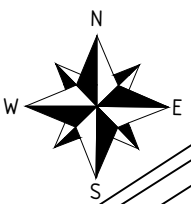
2017/0233/HPA

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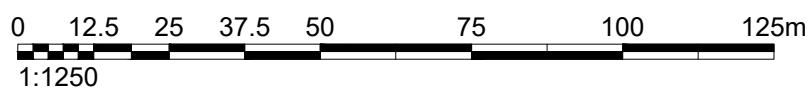


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**AMENDED
DRAWING**



RECEIVED
19 DECEMBER 2017
DEVELOPMENT MANAGEMENT



(C) TDD
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Project 2 Story Rear Extension, Waterside Lodge, Oakwood Park
Market Weighton Road, North Duffield, Selby. YO8 5DD
Title Revised Site Layout
Drawn TD Date 19/12/2017
Scale 1:1250 Checked

**T Duggan
Designs**
Apple Tree Cottage
York Road
North Duffield
SELBY. YO8 5RU
ENGLAND
TEL: 01757 288641
EMAIL:
terence.duggan1910@btinternet.com

Revised Planning Drawings Planning

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To: Planning Committee
Date: 9 May 2018
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

| | | | |
|---------------------|---|--------------|-----------------------|
| APPLICATION NUMBER: | 2017/0233/HPA | PARISH: | Cliffe Parish Council |
| APPLICANT: | Mr Peter Beck | VALID DATE: | 25 April 2017 |
| | | EXPIRY DATE: | 20 June 2017 |
| PROPOSAL: | Proposed erection of 2 storey extension to include swimming pool to ground floor and bedroom with en-suite to first floor | | |
| LOCATION: | 1 Waterside Lodge Oakwood Park Market Weighton Road North Duffield Selby North Yorkshire YO8 5DB | | |
| RECOMMENDATION: | APPROVE | | |

This application has been brought before Planning Committee as a result of a call in by Cllr Deans.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises a two storey building that was granted permission as part of a holiday lodge site called Oakwood Lodges. The site has been used for residential use for some time and includes spacious garden land and a pond situated around the building.
- 1.2 The site lies outside development limits, in the countryside. Vehicle access to the site is taken off Market Weighton Road via a long access track.

The proposal

- 1.3 The proposed development is for the erection of a two storey extension to a dwellinghouse. The layout would include a swimming pool on the ground floor and en-suite bedroom and living area above with a balcony.

Relevant Planning History

- 1.4 2018/0177/CPE – Pending consideration (Application for a lawful development certificate for the existing use of land, for self-catering holiday lodges open all year and for use as dwellings C3 (lawful not to comply with any condition or limitation).
- 1.5 2018/0125/DOC – Pending consideration (Discharge of conditions 01 (materials), 02 (plans), 03 (site enclosure), 04 (landscaping), 05 (occupancy), 06 (occupancy), 07 (drainage), 08 (access), 09 (access), 10 (visibility splays), 11 (access, parking & manoeuvring), 12 (parking), 13 (highways), 14 (lighting), 15 (plans), 16 (access) of approval 2017/0229/FUL Section 73 to vary/remove conditions 05 (access), 10 (access) and 17 (access) of approval 2006/1531/FUL for resubmission of refusal 8/17/37C/PA for the erection of fourteen holiday cabins, community building and associated works)
- 1.6 2006/1531/FUL – Permitted 02.02.2007 (Resubmission of refusal 8/17/37C/PA for the erection of fourteen holiday cabins, community building and associated works).

2.0 CONSULTATION AND PUBLICITY

The application was advertised by site notice and a neighbour notification letter with one comment received from Councillor Deans calling the application into committee citing the following points:

- Committee should consider if the proposal is out of scale with its surroundings and not in keeping with the nature of the surrounding properties on the site.

- 2.1 Internal Drainage Board
No objection subject to surface water condition.

- 2.2 Cliffe Parish Council
No comment received on the application.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site lies outside development limits in the open countryside and is situated within flood zone 1.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a

presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

- 3.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy Policies are:

SP1 Presumption in Favour of Sustainable Development
SP2 Spatial Development Strategy
SP15 Sustainable Development and Climate Change
SP19 Design Quality

Selby District Local Plan

- 3.5 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

ENV1 Control of Development
H14 Extensions to Dwellings in the Countryside

4.0 APPRAISAL

- 4.1 The main issues to be taken into account when assessing this application are:

1. Principle of Development
2. Character and Form
3. Residential amenity
4. Ecology

4.2 Principle of Development

- 4.2.1 Relevant policies in respect to the presumption in favour of sustainable development and reducing carbon emissions and the effect of climate change includes Policies SP1 and SP15 (B) of the Core Strategy and Paragraph 14 of the NPPF.
- 4.2.2 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 4.2.3 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria SP15 (B) of the Core Strategy.
- 4.2.4 Therefore having regard to policy SP15 (B) it is considered that the proposal is acceptable.
- 4.2.5 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 4.2.6 The proposal is for the erection of an extension to a dwellinghouse. There is nothing within the Development Plan or the NPPF to identify this type of development as being unsustainable, or preclude in principle, development of this type in this location.

5.0 Character and Form

- 5.1 The proposed extension would be erected on the east facing elevation of the building and measure circa 12m long at two storey with a 1.9m long balcony. The eaves height would be circa 3.8m and the ridge height 7m. The extension would have a pitched roof and the external materials would match the existing building which includes timber frame walls, concrete roof tiles and windows and doors dark grey upvc.
- 5.2 The existing building measures circa 19.2m x 9.5m and has a pitched roof which is circa 7.5m high.
- 5.3 Policy H14 of Selby District Local Plan states that extensions to dwellings in the countryside will be subject to 3 criteria. These include:
- 1) The proposal would be appropriate to its settings and not visually intrusive in the landscape;
 - 2) The proposal would not result in a disproportionate addition over and above the size of the original dwelling and would not dominate it visually; and

- 3) The design and materials of the proposed extension would be in keeping with the character and appearance of the dwelling and, where appropriate, other buildings in the area.
- 5.4 The extension would be erected on land that lies to the east of the dwelling. There is some boundary planting on the eastern perimeter of the site and along the northern and southern boundary. Beyond the site boundaries there are agricultural fields. The proposal would not extend outside the boundaries of the site and would not appear visually intrusive in the landscape due to the screening on site.
- 5.5 The term 'disproportionate' is not defined within either the NPPF or the Local Plan. On the basis of planning appeal decisions and case law it is normally considered that extensions exceeding 50% of the volume of the original building, taken either singularly or cumulatively with other extensions, constitute a disproportionate addition. Notwithstanding this the 50% volume addition of the original building 'criterion' should only be used as a guide and not a definitive rule and even additions of 40% could appear to be disproportionate dependent upon the size, scale and design of the extension and host property. It is also important that regard is given to cumulative impacts of successive extensions to avoid incremental additions resulting in disproportionate additions over time. In such cases a particular extension, in itself may appear small, but when considered together with other extensions may be considered to constitute a disproportionate addition.
- 5.6 The existing building measures circa 1110m³ and the proposed extension measures circa 475m³. This would equate to some 42% increase in the volume of the building. The existing ground floor area equates to circa 194m² and the proposed ground floor area would be circa 88m². This equates to some 45% increase in ground floor area.
- 5.7 The volume and ground floor area increase on their own are not considered to result in disproportionate addition over and above the size of the original dwelling.
- 5.8 In terms of design and the proposed materials, the extension would be set down by 500mm from the ridge height of the dwelling and the site and dwelling can absorb an extension of this nature. As a result, the proposal would not appear out of keeping on this site or indeed the wider area and would not appear visually dominate.
- 5.9 The proposal materials are to match the dwelling and this can be secured by condition to ensure that the proposal ameliorates with its surroundings.
- 5.10 As such, the proposal is considered to accord with Policies ENV1 and H14 of Selby District Local Plan and Policy SP19 of Selby District Core Strategy.

6.0 Residential amenity

- 6.1 A planning matter for consideration is whether the proposed development would materially harm the residential amenities enjoyed by the occupiers of neighbouring dwellings either through overlooking, overshadowing or having an overbearing impact.

- 6.2 Relevant policies in respect to residential amenity are Policy ENV1 (1) of the Selby District Local Plan. In respect to the NPPF it is noted that one of the Core Principles of the framework is to always seek to ensure a good standard of amenity.
- 6.3 The site is situated in a relatively remote location from residential properties. There is a dwelling located on the western perimeter of the site, but there are no houses on the eastern perimeter.
- 6.4 As such, there is no likelihood of the proposal overlooking, overshadowing or appearing overbearing on any neighbours. The proposal would thereby accord with Policy ENV1 of Selby District Local Plan.

7.0 Ecology

- 7.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.
- 7.2 In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition Policy ENV1 (5) require proposals not to harm acknowledged nature conservation interests.
- 7.3 There is a pond that lies within the site and in close proximity of the proposed extension. An ecology appraisal accompanies the application and advises that the proposal would result in the loss of an area of well-maintained grassland and paving of relatively low value to great crested newts.
- 7.4 The appraisal notes that the study returned no records of protected or notable species from within the site. The pond is in a poor condition, with evident waterfowl damage and limited invertebrate life.
- 7.5 As such, having had regard to the appraisal, it is concluded that the proposal is acceptable and in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan and the NPPF.

Legal Issues

- 8.0 Planning Acts
This application has been determined in accordance with the relevant planning acts.
- 8.1 Human Rights Act 1998
It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.
- 8.2 Equality Act 2010
This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the

conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

8.3 Financial issues are not material to the determination of this application.

9.0 CONCLUSION

9.1 The proposed extension is considered not to be a disproportionate addition to the dwelling and would be a visually acceptable scale of development in this location. The proposal is thereby in accordance with Policies ENV1 and H14 of Selby District Local Plan.

9.2 The proposal is considered to raise no adverse planning issues with regards to residential amenity and ecology and thereby according with Policies ENV1 of Selby District Local Plan and Policy SP19 of Selby District Core Strategy.

10.0 RECOMMENDATION

This application is recommended to be APPROVED subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall be carried out in accordance with the following approved plans:

Revised section AA & BB drawing

Revised site layout

Revised rear (east) elevation & section AA drawing no. 6

Revised south elevation & section BB drawing no. 7

Revised ground floor plan drawing no. 4

Revised first floor plan drawing no. 5

Existing ground floor plan & elevation drawing no. 1

Existing first floor & elevation drawing no. 2

Existing front & rear elevations drawing no. 3

Reason:

For the avoidance of doubt.

03. The external walls and roofing materials of the extension hereby approved shall in all respects match those used in the construction of the existing building.

Reason:

In the interests of visual amenity in accordance with Policy ENV1 of Selby District Local Plan and Policy SP19 of Selby District Core Strategy.

04. Development shall not commence until a scheme detailing surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Principles of sustainable urban drainage shall be employed wherever possible. No part of the development shall be brought into use until the drainage works approved have been completed.

Reason:

To ensure the provision of adequate and sustainable means of drainage in the interests of amenity, in accordance Policy SP15 of Selby District Core Strategy.

Contact Officer: Yvonne Naylor, Principal Planning Officer or Fiona Ellwood, Principal Planning Officer

Appendices: None



APPLICATION SITE

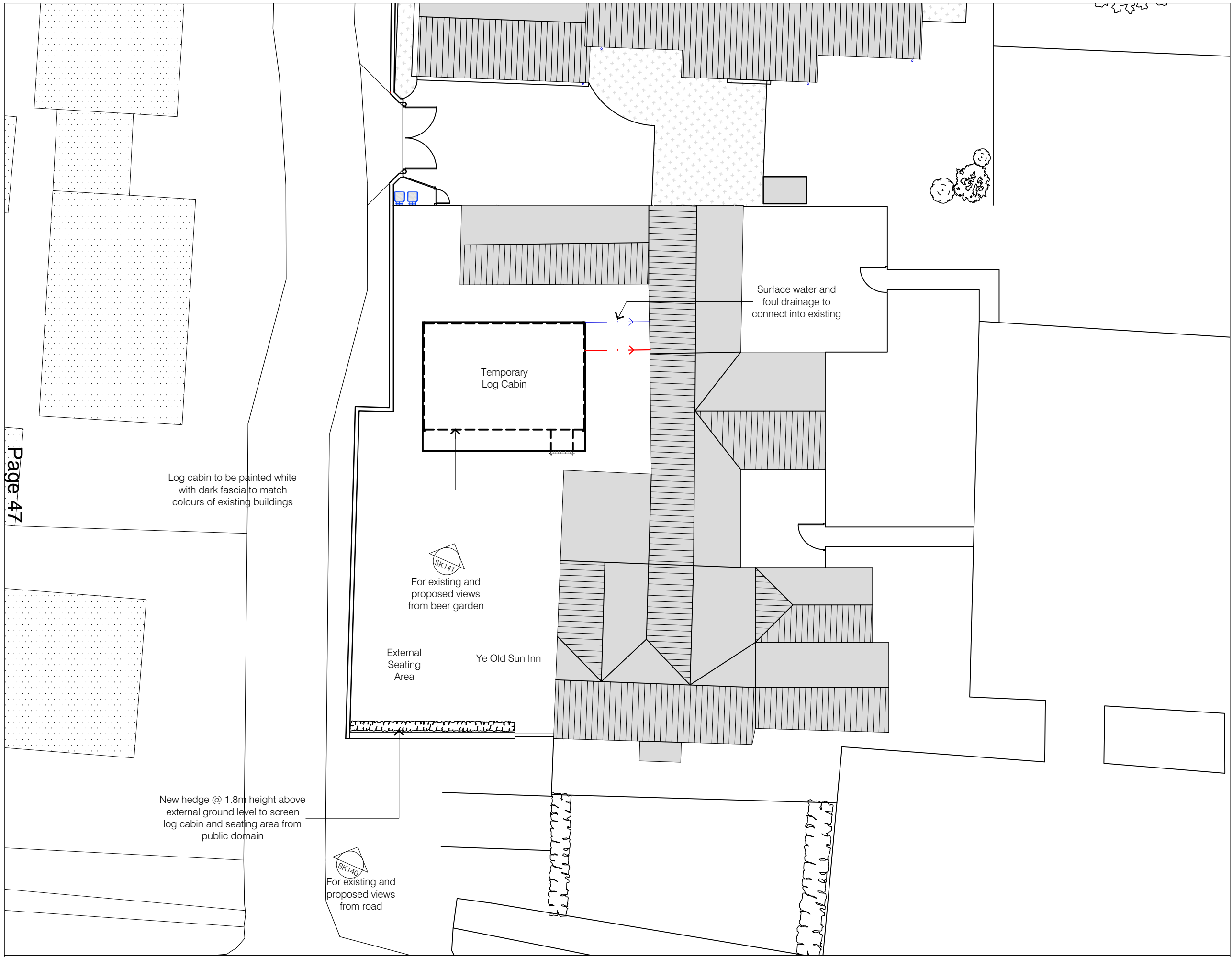
Ye Olde Sun Inne, Main Street, Colton
2017/1264/FUL

1:1,250

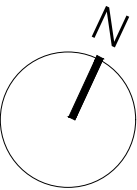


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Page 47



RECEIVED

20 November 2017

DEVELOPMENT MANAGEMENT

| revision | date | description |
|----------|----------|------------------------------------|
| P01 | 26.10.17 | Hedge screen and cabin paint added |

dc-architecture
 Studio 12, Middlethorpe Business Park
 Sim Balk Lane, Bishopthorpe, York, YO23 2BD
 t: 01904 700941 e: studio@dc-architecture.com



project
 Temporary Log Cabin
 Ye Old Sun Inn

drawing
 Proposed Site Plan



| job number | date | status | drawing number | revision |
|------------|----------|----------|----------------|----------|
| 17051 | 22/06/17 | Planning | 105 | P01 |

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To: Planning Committee
Date: 9 May 2018
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

| | | | |
|---------------------|---|-----------------------------|---|
| APPLICATION NUMBER: | 2017/1264/FUL | PARISH: | Bolton Percy, Colton and Stetton Parish Council |
| APPLICANT: | Mr McCarthy | VALID DATE: EXPIRY DATE: | 20 November 2017 15 January 2018 |
| PROPOSAL: | Retrospective application for a 3 year temporary permission to site a log cabin | | |
| LOCATION: | Ye Olde Sun Inne Main Street Colton Tadcaster North Yorkshire LS24 8EP | | |
| RECOMMENDATION: | REFUSAL | | |

This application has been brought before Planning Committee due to a call in by Councillor Musgrave.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site lies within the curtilage of a Grade II listed building called 'Ye Olde Sun Inne', located on Main Street, Colton and within the village of Colton which is situated some 5 miles east of Tadcaster.
- 1.2 The public house sits on the north side of Main Street, set back from the roadside and on elevated land. There is a car park on the east flank of the building and houses on the north and west perimeter on Old Lane Court.
- 1.3 The service yard to the Public House is currently occupied by a timber log cabin, subject to this retrospective application. Land adjacent to the Public House on the

west side is currently filled in with decking and seating and tables and an enclosed raised flower bed.

The Proposal

- 1.4 The application is submitted retrospectively for the siting of a timber log cabin for a 3 year period. The timber cabin measures circa 8.8m x 5.8m x 2m at its lowest height and 2.5m at its highest. The cabin has a 1.2m overhang and a wood fired pizza oven attached to it. The cabin was sited on the land in May 2017.
- 1.5 The cabin is used as a seating and servery area for consumption of pizzas cooked in the attached pizza oven. No foundations have been dug and the cabin can be removed without any remedial works. However, the cabin has been in situ for some time and there has been a significant degree of permanence.
- 1.6 The design and access statement notes there would be new hedge planting to the south of the decking area, but this is not included in the description of development. The decking area and raised planting beds have been constructed on site without the necessary planning permissions.

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application.
 - 1.7.1 2017/0737/FUL – Withdrawn 22.09.2017 - Retrospective application for a 3 year temporary permission to site a log cabin on service yard
 - 1.7.2 2011/0519/LBC – Permitted 12.07.2011 - facilitate new porch and amend details to extension granted under 2009/1122/LBC.
 - 1.7.3 2011/0518/FUL – Permitted 12.07.2011 - New porch to side and amendment to front elevation of extension approved under 2009/1121/FUL.
 - 1.7.4 2010/1125/DPC – Condition discharge 17.11.2010 - Discharge of conditions 2 (archaeology scheme of investigation), 3 (materials), 4 (painting finish) and 5 (materials) in relation to approval 8/77/27P/PA (2009/1121/FUL) for works.
 - 1.7.5 2009/1122/LBC – Permitted 19.04.2010 - Listed Building Consent for extensions to the side and internal alterations including removal of internal walls and the creation of a new doorway.
 - 1.7.6 2009/1121/FUL – Permitted 19.04.2010 - Change of use of existing dairy shop to enlarge the kitchen and provide staff toilet facilities to public house together with extension to provide food preparation area and conversion of part of public house together with an extension to create new dairy shop and additional seating area for public house.

2.0 CONSULTATION AND PUBLICITY

The application has been advertised as a departure from the development plan and affecting the setting of a Listed Building and the former expires on 26th April 2018. Any additional comments received will be reported to the Committee by Officers.

A site notice was placed at the site and nearest neighbours notified, with three objections received citing the following concerns:

- The cabin, pizza oven and decking was constructed without planning permission next to a listed building
- Coaches park on disabled car park protruding beyond the footpath
- Waste is being burnt in old metal waste bin near to the timber cabin posing a fire risk hazard
- Marked increase in noise and disturbance during the summer months
- Sewage from this use will overwhelm the current drainage system
- Houses would be devalued in the village
- Pub trying to cater for wedding events
- The plastic bright green astro turf is not in keeping with the listed building,
- The pizza hut omits smoke which could be a fire hazard
- Part of the service yard was used to burn unwanted rubbish, this has now been moved to the car park area near trees
- Titled as 3 year temporary but what would happen after that term
- Having spent circa £25k did the owners not know they needed planning permission
- The outside bar area will add extra water to the drains.

A call in letter from Councillor Musgrave notes that he supports the application. It states:

- a) That the pub supports a number of jobs and the applicant wishes to diversify the pub to make it more sustainable
- b) Impact on openness of the Green Belt is minimal and is outweighed by the benefits of the development.
- c) The impact on the setting of the listed building would be minimal and is outweighed by the benefits of the development.

Parish Council

No objection, but refer to the surface water not discharging into the main sewer.

NYCC Highways

No objection.

Yorkshire Water

No comment received.

Ainsty (2008) Internal Drainage Board

No objection.

Environmental Health

No objection.

Conservation Officer

Objection.

The design of the structure is inappropriate in terms of scale, design, detailing and materials and does not have regard to the local character, identity and context of its surroundings in terms of its scale. The development is therefore contrary to Local Plan policy ENV22 and Core Strategy policy SP19 as it will have an adverse effect on the architectural and historic character of the listed building and its setting.

The overall proposal has not been designed to conserve these historic assets which contribute to the distinct character of the District and is therefore contrary to Core Strategy policy SP18.

The development does not sustain the significance of the designated heritage asset (Ye Old Sun Inn), it causes less than substantial harm to its significance by developing in its setting and is not clearly or convincingly justified. The development does not conform to policies within the NPPF and can therefore not be supported.

Listed Building Consent is also required for other development which has been carried out to this listed building, at present the works within the yard are unauthorised. Works to a listed building without permission is a criminal offence.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site lies within the defined development limits of Colton and within the Green Belt. Immediately adjacent to the site is a Grade II listed building called 'Ye Olde Sun Inne'. The English Heritage listing states the following:

*SE 54 SW COLTON MAIN STREET (north side)
5/43 Ye Olde Sun Inne
- II*

House, now inn. Early C18 with later additions and alterations. Colourwashed brick with pantile roof. 2 storeys, 3 first floor windows. C20 entrance under porch between second and third windows. Further C20 glazed door to left. Yorkshire sash with glazing bars, 16-pane sash in flush wood architrave under cambered arch. Broken 2-course first floor band. Yorkshire sashes with glazing bars to first floor break coggled band above. Roof line heightened. Remains of ashlar kneeler to right swept roof, end stacks. Irregular C19 and C20 outshuts to rear.

Listing NGR: SE5436244843

- 3.2 The public house is a traditional 18th building, two storeys high and has been extended as noted in the relevant planning history.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National

Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework (“NPPF”) and it is intended that the two documents should be read together.

- 3.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

- 3.5 The relevant Core Strategy Policies are:

SP1 Presumption in Favour of Sustainable Development
SP2 Spatial Development Strategy
SP13 Scale and Distribution of Economic Growth
SP15 Sustainable Development and Climate Change
SP18 Protecting and Enhancing the Environment
SP19 Design Quality

Selby District Local Plan

- 3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

ENV1 Control of Development
ENV2 Environmental Pollution and Contaminated
ENV22 Setting of Listed Buildings
T1 Development in Relation to Highway

Other Guidance/Policies

- 3.7 North Yorkshire County Council SuDs Design Guidance, 2015

4.0 APPRAISAL

- 4.1 The main issues to be taken into account when assessing this application are:

1. Principle of Development
2. Green Belt
3. Impact on Designated Heritage Assets
4. Character and Form
5. Residential amenity
6. Highways
7. Flood Risk, Drainage and Climate Change
8. Other Matters

4.2 Principle of Development

- 4.2.1 The application site lies within the defined development limits of Colton which is washed over Green Belt.
- 4.2.2 Colton is a Secondary Village in the Selby District Core Strategy. Policy SP2C (b) refers to only residential development may be absorbed inside Development Limits of Secondary Villages, but does not include other forms of development. However, SP2 criteria D overrides criteria B by requiring development which is in the Green Belt to conform to Policy SP3 Green Belt which aligns with the criteria set down in the NPPF Chapter 9.
- 4.2.3 It sets out that planning permission will not be granted for inappropriate development unless very special circumstances can be demonstrated that outweigh the presumption against it.

4.3 Green Belt

- 4.3.1 The application site is located within the Green Belt. The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:-
- a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
 - b) If the development is appropriate, the application should be determined on its own merits.
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 4.3.2 Relevant Local Plan policies in respect to the Green Belt are Policies SP2 (d) and SP3 of the Core Strategy which states that planning applications in the Green Belt will be determined using national Green Belt policies. The NPPF is the government's current policy position on development in the Green Belt. The NPPF also states that the fundamental aim of Green Belt policy is keeping land permanently open. It goes on to say that the essential characteristics of Green Belts are their openness and their permanence.
- 4.3.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very

special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- 4.3.4 The siting of the log cabin for ancillary use for the public house to sit and eat pizza is not considered to fall within any of the exceptions listed in paragraph 89 of the NPPF. The development is considered to be inappropriate development in the Green Belt and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.3.5 The Agent notes in the submitted Heritage, Design and Access Statement that there are very special circumstances for the log cabin and this includes the owners of the pub wish to diversify the business by offering cost effective meals and that this diversification is important for the pubs survival. Councillor Musgrave also notes that the log cabin would be a benefit to the pub in its diversification.
- 4.3.6 'Very Special Circumstances' (VSC) is not defined in local or national planning policy, but through various appeal decisions, it can be considered as such circumstances that are extremely rare and the exceptional nature of the proposal or significant social and/or economic benefits to the wider community will need to be demonstrated within the application to prove that the proposal outweighs the harm to the Green Belt caused by the inappropriate development.
- 4.3.7 The Agent's case for VSC is not considered to be an exceptional rare occurrence or would bring about significant social and/or economic benefits to the wider community for example. There would be some social benefit to eating and drinking in the cabin, but this activity could ordinarily be carried out inside the pub building. There would be some economic gain from the development but this is not considered to provide economic benefits to the wider community. It would be worrying if the management of the public house is reliant on the log cabin use to sustain its economic viability.
- 4.3.8 It is thereby considered that no very special circumstance exist that would outweigh the presumption against it.

Impact on Openness of the Green Belt

- 4.3.9 Paragraph 79 states the essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 details the five purposes Green Belt serves which are to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 4.3.10 The development has been sited on the site and the impact on the openness of the area is visually evident. The cabin has been in situ since May 2017 and can be considered a significant degree of permanence. The cabin has an impact on the openness of the Green Belt by the very nature of occupying what was an open space devoid of buildings or structures. The fundamental aim of Green Belt policy is to keep land permanently open by strictly controlling the extent of new building. The proposed development is considered to be inappropriate development in the Green

Belt and is, by definition, harmful to the openness of the Green Belt and should not be approved except in very special circumstances.

Harm to the Purposes of Including Land within the Green Belt

4.3.11 Having had regard to each of the purposes of including land in the Green Belt it is considered that the proposal does not result in the sprawl of large built up areas due to the proposal being located within the confines of the public house boundary. Furthermore it is not considered that the proposals would result in neighbouring towns merging into one another, would not encroach into the countryside and the site is not derelict and would therefore not assist in urban regeneration. In addition the development would preserve the setting and special character of historic towns hence there would be no conflict with the purposes of including land in the Green Belt in accordance with the NPPF.

Benefits of the scheme

4.3.12 The development brings limited benefits to the wider community and there would be some social benefit from use of the cabin in a socialising capacity. There is likely to be economic benefits from this development, but this would be minimal. Substantial weight is given to the definitional harm to the Green Belt and the erosion of openness of the Green Belt, and this harm is not outweighed by the limited benefits from the development.

Green Belt Conclusion

4.3.13 The development is considered to be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. No compelling very special circumstances justify the development that would outweigh the harm to the Green Belt or by other circumstances.

4.3.14 The applicant's case that the log cabin is needed to diversify the business is a weak case and could be repeated all too often. It is not a clear and convincing justification that can be considered to amount to very special circumstances. As such, the development is contrary to Policies SP2 (d) and SP3 of the Core Strategy and the relevant paragraphs within Chapter 9 of the NPPF.

4.4 Impact on Designated Heritage Assets

4.4.1 Planning (Listed Building and Conservation Areas) Act 1990 Section 66 states that special regard should be taken to works which affect the special architectural and historic interest of listed buildings, the character, appearance and setting of which it is desirable to preserve or enhance.

4.4.2 Local planning policies ENV1 and ENV22 of the Local Plan, policies SP18 and SP19 of the Core Strategy and paragraphs 128-137 of the NPPF are applicable to the determination of this application.

Assessment of Significance

- 4.4.3 The application is accompanied with a Heritage Statement which provides a succinct history and description of the Grade II listed pub and notes the internal changes, external alterations and extensions that the building has undergone since its construction, that are known.
- 4.4.4 The Heritage Statement notes that the listed description gives an indication of where the interest of the building lies in what is considered an attempt to devalue the setting of the building, particularly its western area where the log cabin is sited. There is no clear and convincing justification for the log cabin.
- 4.4.5 Setting is defined in the NPPF as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral.'
- 4.4.6 The setting itself is not designated. Every heritage asset, whether designated or not, has a setting. Its importance, and therefore the degree of protection it is offered in planning decisions, depends entirely on the contribution it makes to the significance of the heritage asset or its appreciation.

Impact Assessment

- 4.4.7 The log cabin is situated in area of what was previously an open service yard, devoid of any buildings or structures. Prior to the siting of the log cabin, vehicles used the service yard to make deliveries to the pub and for waste collections. This has been noted by residents in their objections which they advise has resulted in a separate concern for them in terms of where vehicles now park. The setting of the listed building at the rear/western area of the building makes a positive contribution to the experience of viewing the western area of the building and the open space about it that has been eroded by this development. The log cabin diminishes this visual experience and negatively detracts from the setting of the listed building.
- 4.4.8 The application is submitted for a 3 year temporary permission but has been in situ since May 2017. The substantial harm to the setting of the listed building is evident and to consider a temporary permission for this development is not justified or supported.
- 4.4.9 Paragraph 134 states where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 4.4.10 The statutory test in Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 sets out a presumption against development where there would be harm to the setting of a listed building and therefore regard, and great weight, has to be given to any harm to the setting of the Grade II listed Ye Olde Sun Inne in making a balanced judgement required by the NPPF, in respect to less than substantial harm to the designated heritage asset.

4.4.11 Officers consider that the less than substantial harm to the setting of the designated heritage asset is not outweighed by clear and convincing justification that would achieve public benefits of the proposal. The development fails the statutory test in Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and is not in accordance with Policy ENV22 of Selby District Local Plan and Policy SP18 of Selby District Core Strategy and the NPPF, chapter 12.

4.5 Character and Form

4.5.1 The log cabin has been sited next to a single and two storey building that has a white external finish to the property. The log cabin is single storey with a maximum height of some 2.5m. The cabin is visible from public vantage points, namely the roadside and public footpath and also from some adjacent houses on Old Lane Court, although the applicant seeks outside of this application to have raised planted hedging on the south perimeter of the decking area to screen the cabin.

4.5.2 Notwithstanding the conflicts with Green Belt and heritage asset Policies already discussed in this report, the development with a white painted finish would not raise adverse conflicts with Policy ENV1 of Selby District Local Plan and Policy SP19 of Selby District Core Strategy.

4.6 Residential amenity

4.6.1 Objections raised by neighbouring residents as noted above in the report are concerned about the noise and disturbance attributed to the development, and amongst other matters such as the loss of the service yard for deliveries and parking problems caused by this.

4.6.2 The log cabin was operating last summer when it opened for use in May 2017. The log cabin has a wood fire pizza oven for cooking pizzas which are then consumed in the log cabin. The beer garden where the decking has been constructed has been used by patrons to consume alcohol and this is outside the pup and the use can be carried out subject to licensing legislation. Whilst the log cabin would have a congregation of customers in and around it, it is considered that this activity would not be significantly more or intense than a congregation of patrons drinking in the beer garden for example.

4.6.3 In any event, the Council's Environmental Health Team has not raised any objection to the development. If Members were minded to support the application, hours of operation of the log cabin could be considered if they considered this to mitigate against any loss of amenity.

4.6.4 Objections also refer to the fire hazard potential from the wood fire oven on the timber construction of the log cabin. As there has been no objection from statutory consultees on this matter, Officers consider that this matter would be controlled outside planning legislation.

4.6.5 Objections refer to smoke from the pizza oven causing a hazard and is a nuisance. There are no objections from EHO on this matter and consequently, any Environmental Health legislative breaches would fall outside planning legislation.

4.7 Highways

- 4.7.1 Objections received from neighbours refer to the knock on effect that the siting of the log cabin has had given that it occupies the service yard to the pub. This yard once had deliveries to the pub and waste collections. The neighbours refer to vehicles now parking on the disabled parking area, with overhang of the public footpath in the case of coaches.
- 4.7.2 These objections are noted and there would appear to be some disruption to the local highway network, but this would not be considered to be severe impacts.
- 4.7.3 NYCC Highways Officer has raised no objection to the development. As such, it is considered that the development is acceptable and in accordance with policies ENV1(2) and T1 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network.

4.8 Flood Risk, Drainage and Climate Change

- 4.8.1 The application site is located in Flood Zone 1 as noted in the Environment Agency flood mapping. It is therefore considered that the development would be located in an acceptable location.
- 4.8.2 Objections have been received which refer to impacts from surface water in the locality and the main drains not capable of coping with this development. The service yard has a hard standing and the log cabin has been sited upon it. The application form states that surface water is disposed of to the mains sewer. No objections have been received from Yorkshire Water or the Drainage Board on this matter. As such, it is considered that the development does not adversely affect surface water drainage in the locality.
- 4.8.3 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the development, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria SP15 (B) of the Core Strategy.
- 4.8.4 It is considered that the development would be acceptable in terms of flood risk, drainage and climate change and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

4.9 Other Matters

- 4.9.1 The application is submitted retrospectively to regularise the breach of planning control. It is Officers recommendation that the development has a significant and adverse impact to the setting of a Grade II listed building and is inappropriate development in the Green Belt. Should Members conclude to support the Officer recommendation, timescales would have to be agreed between parties for the removal of the log cabin and reinstating the land to its former condition. This is a matter than can be referred to the Planning Enforcement Team to conclude.

- 4.9.2 The impact from a development on house value is not considered a material planning consideration in the determination of this application.
- 4.9.3 Objections that refer to waste burning on the wider pub house site would be a matter outside planning legislation and should be referred to Environmental Health for example.
- 4.9.4 Objections refer to the recently constructed decking area and raised planting beds. This development is not subject to assessment here, but would require assessment under a listed building application as the works appear to touch the external fabric of the listed building and possibly full planning permission. This matter will be referred to Planning Enforcement Team separate of this application.

Legal Issues

5.0 Planning Acts

This application has been determined in accordance with the relevant planning acts.

5.1 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

5.2 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

- 6.0 Financial issues are not material to the determination of this application.

7.0 CONCLUSION

- 7.1 The development amounts to inappropriate development in the Green Belt and substantial weight is to be attached to such harm. There would also be loss of openness of the Green Belt. There are no other considerations that would arise as a result of the development, and the very special circumstances necessary to justify the proposal, as described in the Framework and Policy SP3 of the Core Strategy, do not therefore exist.

- 7.2 The development is considered to fail the statutory test of preserving or enhancing the setting a designated heritage asset, thereby having an adverse impact on the setting of a Grade II listed building.

8.0 RECOMMENDATION

This application is recommended to be REFUSED for the following reasons:

01. The log cabin is considered to result in inappropriate development in the Green Belt. There is a presumption against inappropriate development in

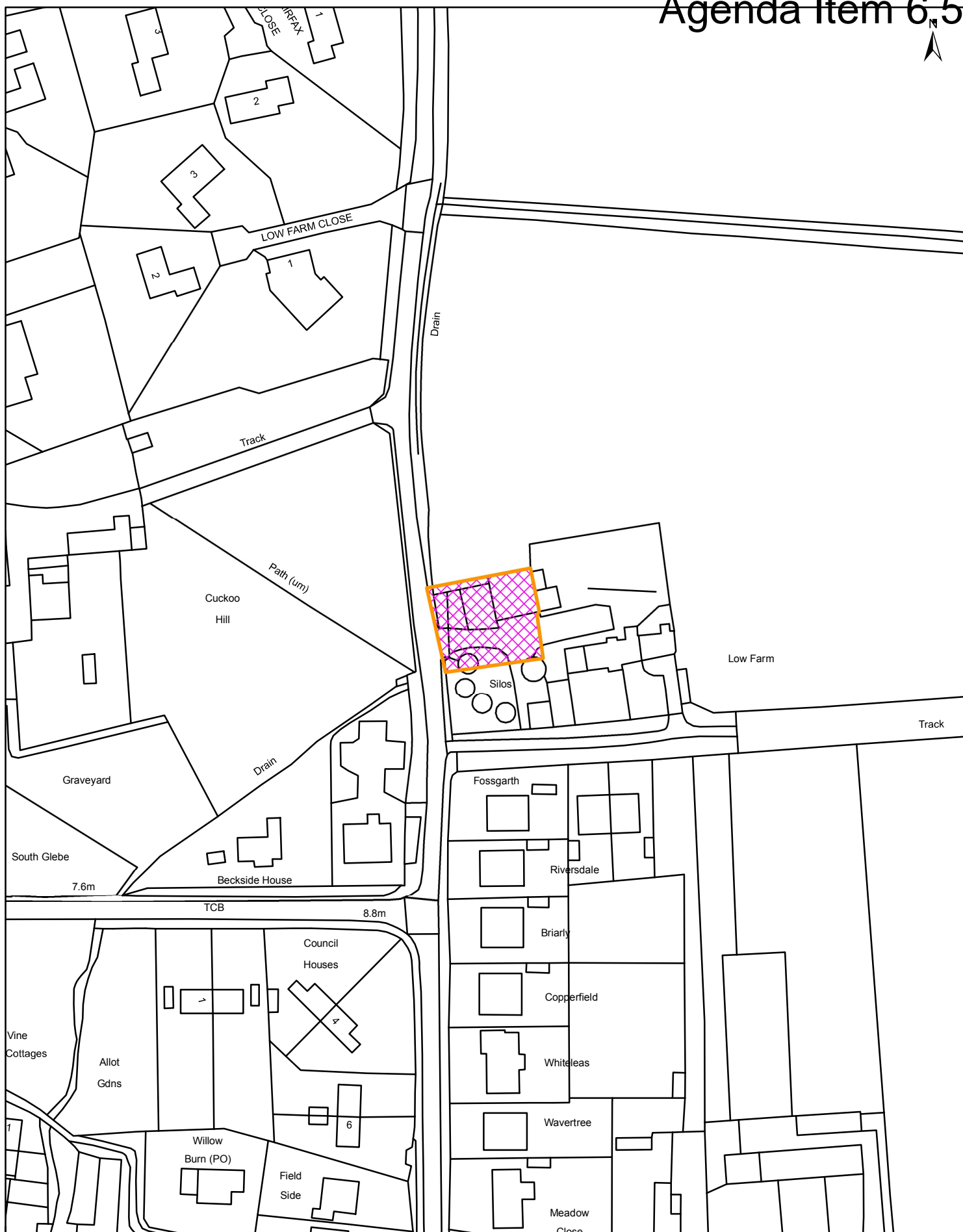
the Green Belt as such development is harmful by definition, and should not be permitted unless there are very special circumstances to justify the development. From the information submitted such circumstances do not exist in this case and therefore the development fails to accord with Policies SP2A (d) and SP3B of the Core Strategy and the advice contained within Chapter 9 of the NPPF.

02. The development has a detrimental impact on the openness of the Green Belt. The space around the listed building is much reduced and the level of built form in this location would be consolidated. This results in harm to the openness of this part of the Green Belt. The proposal is therefore considered to be inappropriate development within the Green Belt which is harmful by definition and should not be permitted unless there are very special circumstances to justify the development. Such circumstances have not been demonstrated in this case and therefore fail to accord with Policies SP2A (d) and SP3B of the Core Strategy and the advice contained within the NPPF.
03. The development has an adverse impact on the setting of a Grade II listed building, by virtue of its siting, obscuring views of the listed building and detracting from the experience of that setting. The development fails the statutory test in in Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 which sets out a presumption against development where there would be harm to the setting of a listed building and therefore regard, and great weight, is given to any harm to the setting of the Grade II listed Ye Olde Sun Inne. As such the development is contrary to Policy ENV22 of Selby District Local Plan, Policy SP18 of Selby District Core Strategy and the NPPF, which all seek to protect designated heritage assets from harmful development.

Contact Officer: Yvonne Naylor, Principal Planning Officer or Fiona Ellwood, Principal Planning Officer

Appendices: None

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APPLICATION SITE

Low Farm, Low Farm Road, Bolton Percy
2018/0260/FUL

1:1,250



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To: Planning Committee
Date: 9 May 2018
Author: Fiona Ellwood (Principle Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager – Planning)

| | | | |
|---------------------|---|-----------------------------|-----------------------------|
| APPLICATION NUMBER: | 2018/0260/FUL | PARISH: | Bolton Percy Parish Council |
| APPLICANT: | Mr Robert Penty | VALID DATE: EXPIRY DATE: | 8 March 2018 3 May 2018 |
| PROPOSAL: | Proposed erection of a four bedroom dwelling and garage | | |
| LOCATION: | Low Farm Low Farm Road Bolton Percy York YO23 7AH | | |
| RECOMMENDATION: | REFUSAL | | |

This application has been brought before Planning Committee due to the number of letters of support which are contrary to the officer’s recommendation

1. INTRODUCTION AND BACKGROUND

The Site and context

- 1.1 The application site lies outside the development limits of Bolton Percy, a secondary village as identified in the Core Strategy, and is therefore located in the open countryside.
- 1.2 The site, which has frontage to Old Road, is part of the curtilage of the original farm complex known as Low Farm on the North East side of the village. It is bounded to the north west by Old Road, to the south by the plot of a new dwelling under construction and to the north by open field.

The Proposal

- 1.4 The proposal is for a detached three bedroom dwelling with an attached single garage. Access is from Low Farm Road with an extension of the footpath across the site frontage.

Planning History

1.5 The following historical applications are considered to be relevant to the determination of this application.

- 2008/0418/CON (NOREQ - 10.04.2008) Conservation Area Consent for the demolition of grain store.
- 2010/0828/FUL (PER - 18.11.2010) Conversion of redundant agricultural buildings to two dwellings including the addition of a two storey and a single storey extension. All the pre-commencement conditions have been discharged for the 2010 conversion permission were discharged.
- 2013/0685/DPC (COND - 08.08.2013) Discharge of conditions 2 (materials), 4 (hard landscaping), 6 (landscaping), 7 (contamination investigation and risk assessment), 15 (site enclosure), 16 (trees) and 17 (demolition) of approval 2010/0828/FUL (8/78/100B/PA) for conversion of redundant agricultural buildings to two dwellings including the addition of a two storey and a single storey extension.
- 2013/1046/DPC (COND - 22.10.2013) Discharge of conditions 7 (contamination) and 8 (remediation) of approval 2010/0828/FUL (8/78/100B/PA) for conversion of redundant agricultural buildings to 2 No dwellings including the addition of a two storey and a single storey extension.
- 2013/1083/DPC (COND - 12.11.2013) Discharge of condition 9 (Remediation Scheme) of approval
- 2012/0553/COU (PER - 12.02.2013) Change of use of part of former farmyard to garden land. The permission was subject to a condition requiring permission for any means of enclosure.
- 2015/0683/FUL (PER - 07.09.2016) Retention of an existing dwelling, the alteration of an existing agricultural building with previous planning permission for conversion to 2No. Dwellings with garden land and the erection of 1 No. dwelling. (This application was originally for 2 additional dwellings but was reduced to just one new build on the part of the site within the development limits).
- 2017/0118/FUL (REF - 31.01.2018) Erection of a four bedroom dwelling and garage
- 2017/0978/DOC (PCO -) Discharge of conditions 02 (Materials), 03 (Ecology), 05 (Landscaping), 07 (Site Enclosure), 08 (works around trees), 09 (Ground Works - Surface Water), 10 (Ground Works - Highways), 11 (Construction Method Statement) of approval 2015/0683/FUL for retention of an existing dwelling, the alteration of an existing agricultural building with previous planning permission for conversion to 2No. dwellings with garden land and the erection of 2No. dwellings

2.0 CONSULTATION AND PUBLICITY

2.1 **County Ecologist** - The application is accompanied by an Ecological Impact Assessment (MAB - March 2018). Satisfied with the assessment in relation to nearby SINCS, SSSI's and wildlife.

Conditions recommended in relation to new lighting and bats, hedgerow and demolition removal not to be undertaken during the nesting season and pre-commencement checks for barn owls.

2.2 **Historic England** – No objection on heritage grounds.

There is some benefit in removing the existing large agricultural shed and allowing greater views through to the nineteenth-century farm buildings behind. The large silos which stood at the front of the site have been demolished and the condition of the large timber shed has deteriorated in recent years. On a recent visit to Bolton Percy we noted that two detached dwellings have been constructed opposite the site. We therefore would not have any objection to the removal of the existing shed structure and replacement with a dwelling.

We defer to the advice of your authority's specialist conservation and design advisers regarding the detail of the design of the dwellings. In our previous responses we highlighted the importance of boundary treatments and welcomed the proposal to introduce hedgerows in appropriate species. Boundary treatments are not detailed on the plans submitted with the application and we recommend this is clarified prior to determination of the application.

2.3 **NYCC Highways:**

No Objections subject to conditions and informatives

2.4 **Yorkshire Water.**

Based on the information submitted, no comments are required from Yorkshire Water.

2.5 **Ainsty (2008) Internal Drainage Board**

The Board does have assets adjacent to the site in the form of various watercourses around the village; these watercourses are known to be subject to high flows during storm events. Detailed comments and conditions recommended relating to soakaways to be included if consent is granted.

2.6 **Conservation Officer** – No comments received

Comments made on previous identical application (2017/0118/FUL) repeated below;

The previous proposed new development appeared to lack an identity as it was the scale of a house but with elements of a barn and did not reflect the farmhouse approach which they intended.

The revised plan 303 shows a proposed dwelling which regular proportions and single storey elements which break up the bulk and massing of a new build property and provide variety and interest in its appearance. This approach is in line with the prevailing character of the village and much more appropriate.

2.7 **Selby District Council – Urban Design Team**

No comments received but comments on previous identical application repeated below;

Agree with the Conservation Officer that the scheme has improved substantially and now appears as a much more contextual form of building that should help to preserve and enhance the character of the village and associated heritage assets in light of its sensitive location to the village periphery. Recommends conditions of the architectural details.

2.8 **Parish Council**

Re-iterate comments on previous scheme.

The only amendments seems to be car parking space. This does not overcome the problems with siting on Low Farm Road of the property, lack of parking for visitors and deliveries, plus sewage/surface water problems, outside the village envelope, velux windows been shown but no staircase etc.

1. Outside village development limits
2. Secondary village in the Core Strategy
3. Seven new houses in either completed/construction stage at the moment.
4. Situated on narrow single track road, no footpath - flooded during past few days
5. The map supplied Fig 1 is out of date. The farm buildings are now under development.
6. Two new very large 5 bedroom properties have been completed recently in the paddock opposite the site. (Also not shown on map)
7. The silos are being replaced with converted barns and one already granted 4 bedroom house
8. Sited in the Conservation area

Concern that Selby District Council can consider this application again, when it has already been refused and it must be refused again.

2.9 **Publicity**

The site was advertised by Press Notice, Site Notice and Neighbour Notification.

Neighbour comments

At the time of writing this report letters of objection have been received from 10 individuals raising the following issues;

- Overdevelopment
- Not infill-outside development limits
- Inappropriate extension of a secondary village
- Adverse impact on CA
- Off street-parking inadequate
- Building position inaccurate
- Traffic problems
- Existing infrastructure overloaded
- Misleading why a 2nd application and not an appeal

- Process manipulation
- Local school over-subscribed
- Supporters are from York and have been canvassed by the applicant – no investment in preserving this village
- Comments that the application is materially misleading and cannot be lawfully approved
- How the development will be carried out is material to the decision on whether to grant planning permission.
- The application does not meet the national minimum validation requirements because it does not show sufficient land are needed to carry out the development
- Suggestions that the development can't be contained within the small site and would result in violations of the highways acts, and potential harm to ecological and other interests during the development phase and approving the application would be negligent.
- Construction Management Plan is urged due to the potential for a number of issues causing nuisance.
- Potential for lorries blocking main access into the village
- Queries the validity of the Ecology Assessment and the County Ecologists comments and consider that the full extent of land needed to carry out the development should considered in their assessment.
- The EA maps are not up to date and don't account for new development that has taken place. Surface water maps show land to the west classed as medium high risk before the houses were built and a high risk area at the access to this site. Yorkshire Water are only commenting that the site can connect to the local sewer and the IDB are only saying there is no risk if the claims by the applicant can be achieved.

In addition 15 letters of support have been received (at the time of writing this report) which it should be noted are mainly from residents of York, with 2 being from Appleton Roebuck and one from Bolton Percy itself. Main comments raised are as follows;

- Sympathetic addition which will enhance the Conservation Area
- 2m wide footpath to site frontage is an improvement
- Will reduce water flow to drains with new water attenuation and therefore decrease flood risk
- Sewage issues are only due to failure by Yorkshire Water
- Good use of farm buildings (was a working farm) which are an eyesore
- Not virgin land but Brownfield
- Complaints by residents helped to curtail the sites use as a farm base. Residential use would be appropriate next to the rest of the sites new residential use
- Part Q of the GPDO permits change of use to residential anyway-(*see officer note below)
- BP does not have a village design statement like Appleton Roebuck And is therefore open to interpretations

*Officer Note - Part Q of the GPDO cannot be engaged on this site due to it being within the Conservation Area.

An update will given at the meeting on any further letters received.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The village development limits run through the centre of the farm site with this application sitting just outside but adjoining the boundary. It is within the Bolton Percy Conservation Area and is Flood Zone 1.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP4 - Management of Residential Development in Settlements
- SP5 - The Scale and Distribution of Housing
- SP9 - Affordable Housing
- SP15 - Sustainable Development and Climate Change
- SP16- Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan

- 3.4 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing

plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.5 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

ENV2 - Environmental Pollution and Contaminated Land

T1 - Development in Relation to Highway

T2 - Access to Roads

Other Policies and Guidance

3.6 Affordable Housing Supplementary Planning Document

3.7 Developer Contributions Supplementary Planning Document

3.8 Draft Selby District Strategic Housing Market Assessment – June 2015

4.0 APPRAISAL

The main issues to be taken into account when assessing this application are:

- a) The Principle of the Development
- b) Impact on the Character and form of the village and the locality
- c) Heritage Assets
- b) Highway Safety conditions
- c) Residential Amenity
- d) Flood risk, Drainage and Climate change
- e) Nature Conservation
- f) Land Contamination
- g) Affordable Housing
- h) Other Matters

The Principle of the Development

4.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

4.2 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.

4.3 Policy SP2 identifies Bolton Percy as being a Secondary Village and states that limited amounts of residential development may be absorbed inside its development limits where it will enhance or maintain the vitality of rural communities. However, the application site lies outside the defined development limits of Bolton Percy. Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural

communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances

- 4.4 In light of the above policy context the proposals to develop this land for residential purposes are contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise.
- 4.5 At the time of writing this report, the Council can confirm that they have a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.6 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 4.7 In respect of sustainability, the site is outside the development limits of Bolton Percy which is a Secondary village, thus being one of the smallest least sustainable settlements in the district. Bolton Percy was too small to include in the Core Strategy Background Paper No5 which assessed the relative sustainability of rural settlements by indicators such as settlement size, basic local services, accessibility and local employment. The analysis extended to villages with a population above 600. Bolton Percy had then a population of only 304 in the 2011 census. As such it is considered to be one of the smaller more remote and least sustainable settlements in the district. It has none of the basic key local services such as a shop, school, post office or doctor's surgery. Although there is a bus service to York, future residents would be mainly reliant on car use.
- 4.8 It is noted that the applicants have made reference to an appeal decision at Biggin, a smaller secondary settlement for two dwellings which was allowed. It should however be noted that a number of recent appeal decisions for dwellings outside Secondary Villages have been dismissed on the basis of sustainability and accessibility to services, facilities and employment.

Previous Levels of Growth and the Scale of the Proposal

- 4.9 CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy does not set a minimum target for individual Secondary Villages, but did set a minimum dwelling target for Secondary Villages as a whole of 170 dwellings. This target reflected planning permissions at that time (April of 2011), which have all been built out. Secondary Villages as a whole have already exceeded their minimum dwelling target set by Policy SP5 and it should also be noted that SP2 of the CS does not require Secondary Villages to accommodate additional growth through allocations.

- 4.10 To date, Bolton Percy has seen 4 (gross) dwellings built in the settlement since the start of the Plan Period (4 net) in April 2011 and has extant gross approvals for 5 dwellings (5 net), giving a gross total of 9 dwellings (9 net).
- 4.11 Taking into account the types and scale of housing development described as appropriate within the development limits of secondary villages in policy SP4, the scale of this individual proposal, at 1 dwelling, is considered to be appropriate to the size and role of a settlement designated as a Secondary Village, when considered in isolation. However the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period.
- 4.12 When assessing the impacts of a housing scheme the effects on the settlements character, infrastructure capacity (including schools, healthcare and transport) and sustainability must also be considered.

Design and Impact on the Character of the Area

- 4.14 Although the proposal would extend development beyond the development boundary, in this case there is a distinctive change in character between the site and the open fields beyond. The application site is just outside but adjoining the development boundary. It is part of a farm site which already has had planning permission as part of the overall site for conversion of the farm buildings. This site forms part of the redline area of an approved scheme for conversions and new build which has been started. Visually the site is associated with the farm buildings and has physical boundaries of existing fencing separating it from the surrounding adjoining fields. The site contains a large modern corrugated farm building with a smaller open fronted shed and hard standing. These are in a dilapidated and run down condition. Beyond the site to the north the land is open undeveloped agricultural field.
- 4.15 This application site also previously had a separate permission for use as garden land. No permitted development restrictions were imposed on the permission. Although this permission has expired, the site was incorporated into the subsequent application reference 2015/0683/FUL as part of the red line and residential area.
- 4.16 The proposed scheme would bring some visual improvement to the northern end of the village through the removal of unsightly farm buildings and replacement with a more conventional cottage style dwelling with varying roof form and subsidiary elevations. It has been designed to appear as if it were a dwelling originally associated with the adjacent original brick barn complex. As such the approach to the village would be a visual improvement replacing the dominance of a new modern detached standard dwelling (approved under ref 2015/0683/FUL and currently under construction) with an open side garden with the proposed cottage style dwelling designed in the local vernacular. This proposed dwelling would be seen alongside the converted barns and would be visible as the first buildings at the north end of the village.
- 4.17 The proposed dwelling will continue the building line formed by the recently permitted adjacent new dwelling. The development of this site would therefore be a rounding off to the existing development and could form a new distinctive and defensible boundary edge to the settlement. As such there would be no impact on the character and appearance of the open land around the village. In terms of

landscaping the plans indicate natural field hedging to the boundaries. This would ensure a soft natural new edge to this end of the village. Permitted development restrictions could be imposed to ensure the garden to the side does not contain any outbuildings which could detract from the site.

- 4.18 Having had regard to all of the above elements the scheme has been appropriately designed so as to ensure that there would be a positive impact on the character of the area and the locality in accordance with Policies ENV1 (1) and (4) and ENV15 of the Local Plan and Policies SP18 and SP19 of the Core Strategy Core Strategy and the NPPF.

Impact on the Heritage Assets

- 4.20 In accordance with the NPPF paragraph 128 the Local Planning Authorities require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The Planning (Listed Building and Conservation Areas) Act 1990 requires, with respect to any buildings or land in a Conservation Area that special attention be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 4.21 The site lies within the Bolton Percy Conservation area which extends to include the whole of the Low Farm site. The applicants Heritage Statement indicates that the plot currently includes a large timber framed barn which will be removed to leave a flat, level and largely open plot with a perimeter defined by a timber post and rail fence, which will be reinforced and enhanced with the new perimeter hedges of native species, hawthorn, blackthorn, holly and hazel to provide privacy when mature.
- 4.22 The village of Bolton Percy has a very mixed collection of dwellings of many styles and eras and as such the existing character and appearance of the conservation area in the village is quite indistinct, especially with the larger more modern dwellings recently built and characterised by the adjacent dwelling and those opposite the site. The architect has produced a more conventional cottage appearance. The additions on the three subsidiary elevations appear organic as historically, over time cottages were extended. The dwelling now has a simple design appropriate to its location. Materials and details of the boundary treatment and landscaping can be secured by condition.
- 4.23 Overall the removal of modern dilapidated structures would improve the appearance of the site. Views of the rear of the old brick farm buildings would be maintained and the dwelling design would appear more like a farm house associated with the traditional farm buildings.
- 4.24 The site is located on a visibly prominent site at the northern entrance to the village. This proposal would create an attractive development at this end of the village encompassing the new dwellings and the converted farm buildings with a new indigenous hedgerow to form a softened edge to the village. As such the character and appearance of this part of the Conservation Area would be enhanced. The comments of Historic England, the Conservation Officer and the Urban Design officer support this view that the development proposed would have a positive impact on the character and appearance of the Conservation Area.

- 4.25 Having had regard to the above comments and taking into account Paragraph 135 of the NPPF, it is considered that the proposals are considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 of the Selby Local Plan, Policies SP18 and SP19 of the Selby Core Strategy and the NPPF.

Highway Safety conditions

- 4.26 The proposed dwelling would have an access directly onto Old Road, with the footpath extended across the front of the site.
- 4.27 On the recently approved scheme 2015/0683/FUL improvements were sought and the developer has agreed, to provide a new footway linking the site. This will encourage walking and provide safer access to and from the site for pedestrians. The plans for this dwelling clearly indicate this provision would be continued across the site frontage. In respect of parking provision, an appropriate level of parking provision can be achieved within the scheme in accordance with the required standards.
- 4.28 The concerns of local residents in relation to parking, service vehicles and deliveries, footways and road safety are noted. However, the Local Highway Authority is satisfied that the scheme is acceptable subject to the conditions imposed under section 3 of this report.
- 4.29 The scheme provides a safe means of access to the dwelling with adequate parking. It is therefore considered to be acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

Residential Amenity

- 4.30 The nearest dwellings are the existing Farm House already on the site, together with the approved new house on the adjoining plot and the traditional farm buildings which have consent for conversion. 2 other semi-detached dwellings front the unadopted side lane opposite the site. In addition, new dwellings are under construction on the opposite side of Old Road.
- 4.31 The design of the scheme ensures that no significant detriment would be caused through overlooking, overshadowing or creating an oppressive outlook on either the future residents of the proposed dwellings or the occupiers of adjacent properties. Adequate distances exist between the buildings and together with the arrangement of dwellings with private garden areas to the rear the scheme is considered acceptable.
- 4.32 Therefore the proposal would not cause a detrimental impact on the residential amenities of either existing dwellings and an adequate standard of amenity can be provided for future occupants in accordance with Policy ENV 1 (1) of the Local Plan and the NPPF

Flood risk, Drainage and Climate change

- 4.33 The application site is located in Flood Zone 1 (low probability of flooding) and as such it is not at risk from flooding. In respect of surface water run-off drainage it is proposed for source control of run-off via infiltration systems to a soakaway. Foul water would be disposed of via the existing main sewer.
- 4.34 The concerns of the Parish Council and Local Residents in relation to problems with drainage are noted. However, both the Water Authority and the Drainage Board support the scheme subject to conditions. The applicant has worked with the drainage board towards a solution and they are now satisfied that the applicant has a clear methodology for sustainable disposal of surface water. The applicant has clarified the intention to discharge into the watercourse using the existing facilities, and will attenuate the discharge rate to 70% of the existing.
- 4.35 In respect of energy efficiency, renewable materials will be utilised as far as possible and solar panels will be considered in order to reduce the reliance on non-renewable energy sources. In addition the dwellings would be constructed to Code for Sustainable Homes Level 3 with appropriate glazing and insulation required to meet this standard. As such the proposals will satisfy Policies SP15 and SP16 of the Core Strategy.
- 4.36 Therefore the proposal would not have significant impact on flood risk, drainage and the sewerage system. Having had regard to the above, subject to the inclusion of conditions the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to flood risk, drainage and climate change, subject to attached conditions.

Impact on Nature Conservation and Protected Species

- 4.37 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 4.38 The Ecological Appraisal submitted confirms that there are no notable or protected habitats on site. There were no signs of use by protected species nor did the site offer suitable habitat for any. The site consists of bare ground, a section of species-poor hawthorn hedge, a small strip of improved grassland, and an open-sided barn. The barn offers no bat roosting potential and no further bat survey work is required. A barn owl has previously used the barn as an occasional feeding roost site, but there is no evidence of recent usage. A permanent internal barn owl nest box is being provided within a building adjacent to the site, which is subject to recent planning approval and condition. There would be loss of nesting habitat in the agricultural building and there could be risk of disturbance to nesting birds if hedges or building removal takes place in the nesting season or if active nests are present. However this can be controlled through a suitable planning condition. There are local records for great crested newt (GCN) from Bolton Percy. However, due to the fact that the development site is within an active farm yard, and there is an absence of suitable GCN habitat on site, presence/absence surveys are not required.

- 4.39 In the light of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation.

Land Contamination

- 4.40 A Phase 1 Contamination Report was submitted as part of the previous planning application and was the subject of a planning condition which was discharged as part of the commencement of the previous permission. As such the only requirement in respect of this proposal is for the standard conditions in respect of remediation, monitoring and the fall back condition in respect of unexpected contamination. As such the proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Selby Local Plan and Policy SP19 of the Selby Core Strategy.

Affordable Housing

- 4.41 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 4.42 Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 4.43 In the context of the recent Court of Appeal Judgement in relation to the West Berkshire Case the Council is no longer able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD. The proposal is contrary to the provisions of the Development Plan but there are material considerations – the High Court decision on the West Berkshire case - which would justify approving the application without the need to secure an affordable housing contribution. The proposed legal agreement is therefore no longer required.
- 4.44 The proposed development, although contrary to Policy SP9 of the Core Strategy is considered acceptable without an Affordable Housing contribution.

Other Matters

Representations raised a number of issues not covered in the above report. Queries regarding why the applicant re-submitted rather than appealed. However, the applicant is entitled to a free re-submission within 12 months of a refusal. Comments are also made about the validity of the letters of support as they are mostly from York residents who have no interest in the village. However, the Council is required to consider any letter which raises material planning issues either in support of or against an application. In respect of comments made about the site area and the implications for construction, ecology and drainage. The applicant has provided a revised site plan and has been asked to comment on the extent of any construction works outside of the site. Further consultation has taken place and an update will be given on this at the meeting.

Legal Issues

4.45 Planning Acts

This application has been determined in accordance with the relevant planning acts.

4.46 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

4.47 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

4.48 Financial issues are not material to the determination of this application.

5.0 CONCLUSION

5.1 The application seeks full planning permission for residential development for one dwelling. The application site is located outside the defined development limits of Bolton Percy, which is a small secondary Village as identified in the Core Strategy, and is therefore located within the open countryside. There are already extant approvals for a total of 9 dwellings and capacity for further residential development already exists in the village. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would the expansion of the village beyond the development limits therefore conflicts with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. It would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. Moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to SP1 and Policy SP2A(c) of the Core Strategy and paragraph 14 of the NPPF. The application should therefore be refused unless material considerations indicate otherwise.

5.6 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance, landscaping and access could be achieved for the proposals to be acceptable in respect of the impact on the character and appearance of the area, impact on residential amenity and impact on highway safety. Furthermore, the proposals are considered to be acceptable in respect of Historic Assets, flood risk, drainage and climate change, nature conservation and protected species, land contamination.

5.7 Given that the site is outside the development limit, the proposal would directly conflict with policies thus undermining the established settlement hierarchy. As such it would not be in accordance with the development plan. On balance, although there would be some positive impact on the Conservation Area, and no harm to the character or appearance of the area is identified, this is not considered to outweigh the conflict with Policies SP1 and SP2(A)(c) of the Core Strategy due to the

unsustainable location of the site. As such, it is concluded that the proposals would be unacceptable.

6.0 Recommendation

This planning application is recommended to be REFUSED for the following reason:

01 There are already extant approvals for a total of 9 dwellings and capacity for further residential development already exists in the village Bolton Percy, a settlement, which is secondary Village in the Core Strategy. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to SP1 and Policy SP2A(c) of the Core Strategy and paragraph 14 of the NPPF.

3.1 Legal Issues

3.1.1 Planning Acts

This application has been determined in accordance with the relevant planning acts.

3.1.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

3.1.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

3.2 Financial Issues

3.2.1 Financial issues are not material to the determination of this application.

4. Conclusion

4.1 As stated in the main body of the report.

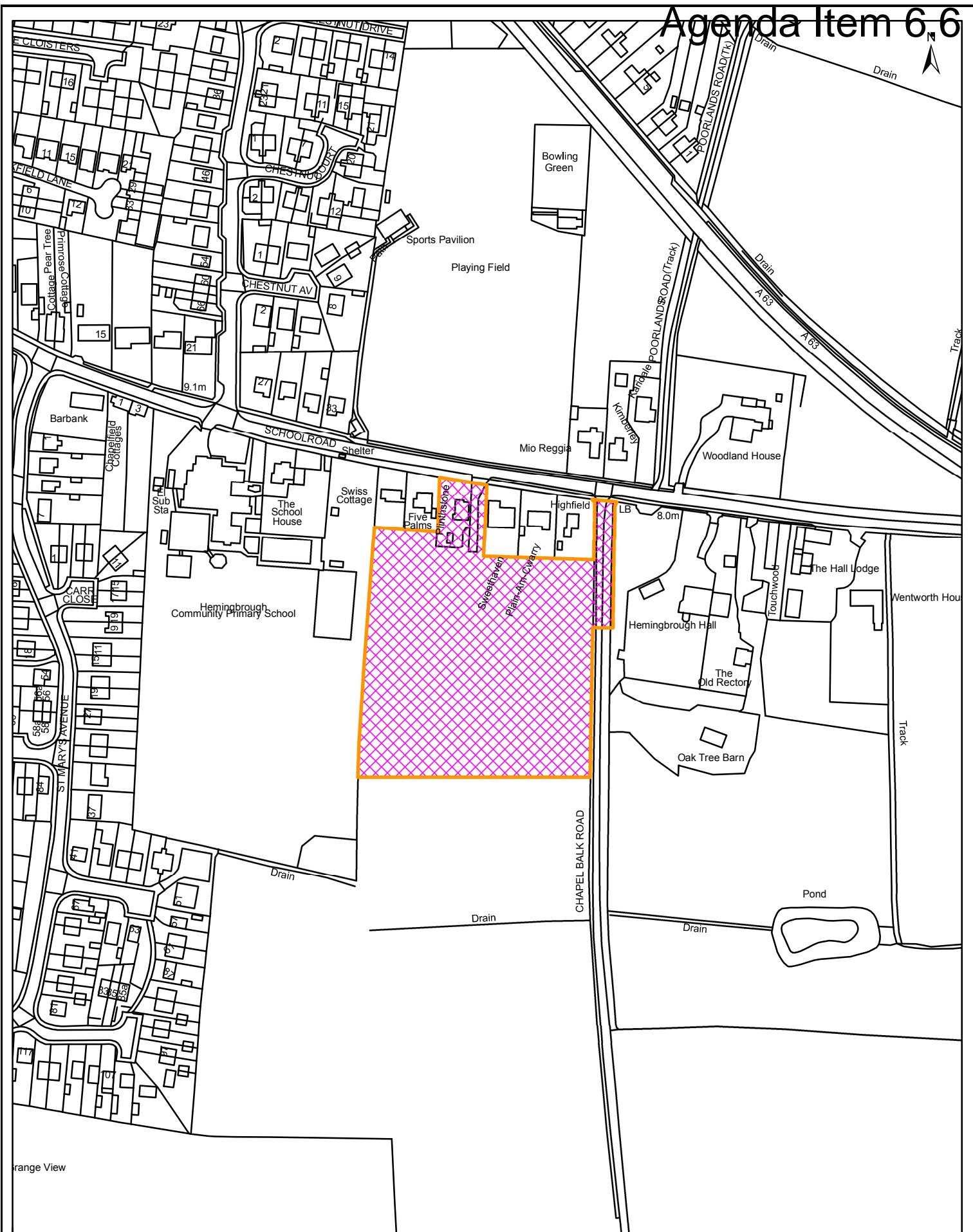
5. Background Documents

5.1 Planning Application file reference 2017/0118/FUL and associated documents.

Contact Officer: Fiona Ellwood, Principal Planning Officer

Appendices: None

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APPLICATION SITE

Land off School Road, Hemingbrough
2017/0772/OUTM

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Report Reference Number: 2017/0772/OUTM (8/18/463/PA) Agenda Item No: 6.6

To: Planning Committee
Date: 9 May 2018
Author: Louise Milnes (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

| | | | |
|---------------------|---|-----------------------------|---------------------------------|
| APPLICATION NUMBER: | 2017/0772/OUTM 8/18/463/PA | PARISH: | Hemingbrough Parish Council |
| APPLICANT: | Mr Bruce Falkingham | VALID DATE: EXPIRY DATE: | 26 July 2017 25 October 2017 |
| PROPOSAL: | Outline application including access (all other matters reserved) for residential development | | |
| LOCATION: | School Road, Hemingbrough, Selby, North Yorkshire, YO8 6QS | | |
| RECOMMENDATION: | REFUSE | | |

This application has been brought before Planning Committee at the request of Councillor Karl Arthur due to concerns regarding increased pressure on the sustainability of the village and its facilities and infrastructure (public transport facilities, schools, doctors, surgeries etc), the development is contrary to Paragraph 14 of the NPPF, the development may have a negative impact on the character of the village, the impact on residential amenity and the impact of increased traffic activity in the area as a result of the development.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises 1.50ha of land which comprises an existing detached dwelling and associated residential curtilage and an area of agricultural land. The planning history shows that there were some commercial buildings on part of the site at one time, however these have been demolished and any evidence of these have blended into the landscape the site therefore appears to be wholly agricultural in nature. There are detached residential properties fronting School Road to the north of the site, Hemingbrough Community Primary School and associated playing fields are located to the west, bounded by hedgerow, the land to the south is agricultural with no boundary defining it from the application site, with Chapel Balk Road running adjacent to the eastern boundary. There is an existing

purple leafed Norway maple tree located in the front garden of the existing property and is considered worthy of TPO this is therefore subject to a temporary TPO, which is awaiting confirmation.

The Proposal

- 1.2 The application seeks outline consent for a proposed residential development for up to 60 dwellings with access for consideration and all other matters reserved.

Relevant Planning History

- 1.3 Application reference CO/1976/05679 for the conversion of a derelict building to an office was Approved on 10 November 1976.
- 1.4 Application reference CO/1976/05680 for an extension to office building to form toilet and entrance lobby was Approved on 23 December 1976.
- 1.5 Application reference CO/1979/05681 for use of land in connection with the boarding of cats and dogs was Refused on 30 May 1979.
- 1.6 Application reference CO/1979/05682 for the erection of a general purpose store was Refused on 30 May 1979.
- 1.7 Application reference CO/1981/05683 for improvement of temporary agricultural store and change of use to agricultural merchants store was Approved on 4 March 1981.
- 1.8 Application reference 2010/0599/_CPP for a certificate of proposed lawful use for A1 (retail) was Dismissed at Appeal on 4 July 2011.

2. CONSULTATION AND PUBLICITY

The application was advertised as a Departure from the Development Plan by site notice, neighbour notification letter and advertisement in the local newspaper.

- 2.1 **Hemingbrough Parish Council** – Have strong objections relating to loss of copper maple tree, Chapel Balk Road being used for parking, poor access and visibility, safety concerns due to proximity to primary school and playing fields, increase in traffic on School Road and improvements needed to the junction with the A63, demands on school, doctors surgery and local shops, no public transport to support development and no recreational areas highlighted.
- 2.2 **North Yorkshire County Council Highways** – No objections subject to conditions. Awaiting comments from re-consultation.
- 2.3 **Yorkshire Water** – No objection to the surface water from the site draining to IDB maintained watercourses to the south.
- 2.4 **Ouse and Derwent Internal Drainage Board** – No objection in principle but recommend that the LPA ask the applicant to provide a satisfactory drainage strategy and obtain any necessary consent before any approval is granted. Conditions are recommended should approval be granted.

- 2.5 **NYYC Lead Flood Authority** – Defer to the IDB and wishes that conditions requested by the IDB are adhered to and attached to any permission granted.
- 2.6 **Environment Agency** – No objections.
- 2.7 **Contaminated Land Consultant** – No objections subject to conditions.
- 2.8 **Natural England** – No objections.
- 2.9 **North Yorkshire Bat Group** – It is noted from the ecology report that it is recommended that a bat emergence survey should be carried out on the existing dwelling which is to be demolished and has bat roost potential. It would appear that this has not been done and should be undertaken before a decision is made on this application.
- 2.10 **North Yorkshire Archaeology** – The site is of regional interest with some potential to be of national interest and therefore a scheme of archaeological mitigation recording should be undertaken and this should be conditioned.
- 2.11 **North Yorkshire Education** – No contribution is sought.
- 2.12 **Environmental Health** – A condition is recommended requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential property.
- 2.13 **North Yorkshire Fire and Rescue** – No response received.
- 2.14 **North Yorkshire Police** – Various comments made and a condition is recommended relating to crime prevention measures to be incorporated into the site.
- 2.15 **York Clinical Commissioning Group** – No response received.
- 2.16 **North Yorkshire Public Rights of Way** – No response received.
- 2.17 **Landscape Architect** – The proposed development forms a significant extension into open countryside and is likely to adversely affect landscape character and the setting of the village.
- 2.18 **Policy and Strategy Team** – The key issues to be addressed are the impact on the Council's Housing Land Strategy; the Principle of development; previous levels of growth and the scale of the proposal and the relationship of the proposal to the development limit.
- 2.19 **North Yorkshire County Council Ecology** – Awaiting comments.
- 2.20 **Neighbour Summary** – Ten letters of objection were received and the issues raised can be summarised as 1) impact on privacy through overlooking; 2) loss of light to existing properties; 3) access would be insufficient for the number of dwellings proposed; 4) impact on existing amenities in the village; 5) impact on congestion along School Road, 6) increased risk of flooding on a site which has poor drainage already; 7) improvements required to junction with A63; 8) impact on

school places; 9) noise impacts; 10) established hedgerow across site was burnt and removed; 11) impact on wildlife and use for recreational purposes; 12) loss of mature trees; 13) road safety concerns for school children; 14) lack of bus services; 15) brownfield sites should be built on before this site is released, 16) existing property contains asbestos and 17) it should be noted that trees to east of Chapel Balk are protected via TPO.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located predominantly outside the defined development limits of Hemingbrough (a Designated Service Village), to the south east of the existing settlement boundary and as such is within Open Countryside. The existing property known as Plinthstones and its curtilage and part of the site access are located within the development limits. The site lies within Flood Zone 1 which has low probability of flooding. The site is potentially contaminated due to past land uses.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy and saved Policies are:

Policy SP1: Presumption in favour of Sustainable Development
Policy SP2: Spatial Development Strategy
Policy SP5: The Scale and Distribution of Housing
Policy SP8: Housing Mix
Policy SP9: Affordable Housing
Policy SP15: Sustainable Development and Climate Change
Policy SP16: Improving Resource Efficiency

Policy SP18: Protecting and Enhancing the Environment
Policy SP19: Design Quality

Selby District Local Plan

3.5 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004 applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.6 The relevant Selby District Local Plan Policies are:

Policy ENV1: Control of Development
Policy ENV2: Environmental Pollution and Contaminated Land
Policy T1: Development in relation to the Highway Network
Policy T2: Access to Roads

Supplementary Planning Documents

3.7 The relevant Supplementary Planning Documents are:

Affordable Housing Supplementary Planning Document, 2013
Hemingbrough Village Design Statement, 2009

4.0 APPRAISAL

4.1 The main issues to be taken into account when assessing this application are:

- Principle of development
- Impact on the Landscape
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Impact on the Highway
- Impact on Nature Conservation and Protected Species
- Affordable Housing
- Housing Mix
- Flood Risk, Drainage and Climate Change
- Land Contamination

Principle of development

4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

4.3 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.

- 4.4 The application site is located predominantly outside the defined development limits of Hemingbrough, with the exception of the existing property Plinthstone and its curtilage and part of the proposed access road. Hemingbrough is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 4.5 Policy SP2A(c) of the Core Strategy states that “Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”
- 4.6 The proposal does not comply with Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 4.7 On the 15th November 2017, the Director of Economic Regeneration & Place at Selby District Council formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure, as set out in the 2017-2022 Five Year Housing Land Supply Statement – 30th September 2017 Update. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.8 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 4.9 In respect of sustainability, the site is outside the development limits of Hemingbrough which is a Designated Service Village as identified in the Core Strategy, where there is some scope for additional residential and small scale employment to support rural sustainability. The village of Hemingbrough contains a primary school, local shop including post office, two public houses and two churches, a number of local businesses and a sports field for bowling and cricket. In addition, there is a bus service between Goole and Selby which provides onward links to York, Leeds and other cities and a school bus service. It is therefore considered that the settlement is relatively well served by local services.
- 4.10 It is noted that the village of Hemingbrough has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, which demonstrates that the Council has considered the village a sustainable location in a rural context. The village is considered to be “more sustainable” in Core Strategy Background Paper 5 Sustainability Assessment of Rural Settlements,

Revised July 2008 meaning that three of four indicators assessed were in the highest two categories. The type and range of facilities, public transport accessibility and access to employment opportunities identified in Hemingbrough was broadly similar in the PLAN Selby Site Allocations, Designated Service Villages, Growth Options Report, Draft For Stakeholder Engagement, June 2015 (recognising that there are some differences with the studies). Furthermore, the situation in respect of the sustainability of Hemingbrough has remained broadly similar since June 2015 to date. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Hemingbrough, it would be served by the facilities within this sustainable settlement and as such would perform highly with respect to its sustainability credentials in these respects, however this needs to be considered alongside the levels of growth of the settlement.

Previous Levels of Growth and the Scale of the Proposal

- 4.11 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 new dwellings for Designated Service Villages (DSVs) as a whole over the period 2011 to 2027. The most recent monitoring indicates that this figure has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual Designated Service Villages, so it is not possible at this point to ascertain exactly whether Hemingbrough has exceeded its dwelling target.
- 4.12 In order to assess the scale of housing allocations to apportion to each Designated Service Village in the Site Allocations Local Plan, the Council published a Designated Service Villages Growth Options Report as part of the evidence base for the PLAN Selby Site Allocations Local Plan Document in June of 2015; this document was subject to a 6 week public consultation.
- 4.13 The evidence set out in the Growth Options report provides a guide for decision making as to the amount of housing development that is appropriate in Designated Service Villages. The research and analysis undertaken in the Growth Options report included a numerical assessment of the housing supply per village and a detailed assessment of the services and infrastructure of each village, in order to determine its sustainability.
- 4.14 This approach accords with the spatial strategy of the Core Strategy which envisages only “limited” growth in Designated Service Villages to support rural sustainability. Any other approach would inevitably lead to unsustainable levels of housing development in the villages and a fundamental undermining of the spatial strategy.
- 4.15 The Growth Options report indicates minimum growth options of between 33-54 dwellings for Hemingbrough. To date, Hemingbrough has seen 15 (gross) dwellings built in the settlement since the start of the Plan Period (13 net) in April 2011 and has extant gross approvals for 14 dwellings (14 net), giving a gross total of 29 dwellings (27 net). Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, for up to 60 dwellings when added to the 29 dwellings that have been built or approved would substantially exceed the minimum growth options of between 33-54 dwellings. The proposal

would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Hemingbrough and conflicts with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan.

Taking the above into account given that the site is outside the development limit the proposal would directly conflict with Policies SP2A and SP5 of the Core Strategy and would thus undermine the established settlement hierarchy.

Design and Impact on the Character of the Area

- 4.16 The application proposes outline consent for up to 60 no. dwellings with access for consideration and all other matters reserved. The Applicant has not submitted an indicative layout plan with the application, however taking account of the site area and the policy requirement for recreational open space to be incorporated onto the site it is likely that a development of this number would be far too dense taking into account the surrounding context. It is however noted that this number of units is being used for indicative purposes and as such any reserved matters application could be amended to reflect an appropriate density.
- 4.17 The properties along School Road vary in terms of their design, scale and appearance with a mixture of two storey and single storey properties. The predominant material of construction being red brick with either grey or red roof tiles. Having had regard to the variety of properties there is nothing to suggest that an appropriate appearance and scale cannot be achieved at reserved matters stage.
- 4.18 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character due to the arable nature of the site, with hedgerows located on the western and part of the northern site boundaries. In addition there is a copper maple tree located in the front garden of the existing property. Having consulted the Council's Tree Consultant they have advised that this tree is worthy of formal protection and as such a temporary TPO has been placed on this tree which is awaiting formal confirmation. Local residents have also highlighted the fact that there are protected trees to the east of Chapel Balk Lane and it would be expected that this would not be adversely affected by the development and that this should be demonstrated within any subsequent reserved matters scheme.
- 4.19 The Police Architectural Liaison Officer has commented on the proposals and has made a series of recommendations and although they have recommended conditions, the detailed layout and design will be considered at reserved matters stage and North Yorkshire Police will be consulted on any subsequent application to ensure that crime and security measures have been adequately incorporated.
- 4.20 Given that the application site is situated outside the settlement boundary the application has been assessed by the Council's Principal Landscape Architect. He has stated that the proposed development forms a significant extension into open countryside and is likely to adversely affect landscape character and the setting of the village, particularly the character of the gateway and approach into the village from the east. Furthermore the proposals encourage additional future development pressure on land to the south which would adversely affect the character and

setting of the village. It is therefore concluded that the development would not be supported in landscape and visual terms and is contrary to Policy ENV1 (1) and (4) of the Local Plan and Policy SP19 of the Core Strategy.

- 4.21 Having had regard to all of the above elements it is considered that although an appropriate design of individual properties could be achieved at reserved matters stage the proposals are contrary to Policy ENV1 (1) and (4) of the Local Plan and Policy SP19 of the Core Strategy with respect to their landscape impacts and the impact on the character and setting of the village.

Impact on Residential Amenity

- 4.22 Local residents have expressed some concern with respect to impacts on their amenity. The detailed design of the properties, orientation and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook. Having had regard to the relationship to neighbouring properties, it is considered that a scheme which protects residential amenity could be achieved at reserved matters stage.
- 4.23 The Lead Officer for Environmental Health has recommended a condition requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties be submitted prior to site preparation and construction work commencing given the size of the development and its close proximity to existing residential properties. This proposed condition is considered reasonable and proportionate.
- 4.24 Having taken into account the matters discussed above it is considered that an appropriate scheme could be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Impact on the Highway Network

- 4.25 The application is accompanied by a Transport Assessment which establishes the impacts of the proposals on the existing highway network taking into account traffic generation and traffic accidents, access to public transport and local facilities and alternative means of travel and concludes that the impact is not severe and there are no highways or transport related reasons why the development should not be granted.
- 4.26 A number of comments have been received by local residents with respect to the impacts on the highway network and in particular the existing highway and parking problems along School Road and at the junction of the A63 and these have been taken into account.
- 4.27 The application seeks approval of the site access and shows that the access would be formed through alterations to Chapel Balk Road with a pedestrian access adjacent to the existing property Plinthstones. NYCC Highways have considered the proposals and have stated that the proposed access does provide adequate visibility and raise no other objections to the scheme with respect to the impact of the proposals on the wider highway network subject to a series of conditions.

- 4.28 In terms of the impact on the highway network the proposals are in accordance with Policies T1 and T2 of the Selby District Local Plan.

Impact on Nature Conservation Issues

Nature Conservation Sites

- 4.29 No statutory nature conservation designations have been identified at the site itself and the site is located some distance from the River Derwent SSSI (Site of Special Scientific Interest) and SAC (Special Area of Conservation). The SSSI is primarily designated on the basis of its status due to it representing one of the best British examples of the classic river profile, and the diverse aquatic flora and fauna it supports. The site's SAC European Site status relates primarily to the river's lamprey population and spawning grounds plus to presence of bullhead, sea lamprey and otter.
- 4.30 In terms of non-statutorily designated sites (Sites of Importance for Nature Conservation (SINCs)) there are three sites, two of which have been deleted, with the closest SINC (Hagg Green Lane) to the application site is located some distance to the north-west. Due to the distance between the SINC and application site, any impact is unlikely. Having consulted Natural England they have raised no objections with respect to the impacts on nature conservation sites.

Protected Species

- 4.31 Comments have been received from local residents with respect to impacts on protected species and wildlife. The application is accompanied by an Ecological Appraisal dated June 2017 which assessed the site as having limited ecological value with no evidence of protected or notable species recorded. The existing dwelling was assessed as having moderate suitability to support roosting bats and as such a subsequent Bat Survey Report was submitted which included an assessment of bat activity which established that there were no roosts present, however the front and rear gardens were used as foraging habitat. The report sets out that no specific mitigation measures are required, however enhanced roosting opportunities through bat boxes being installed is recommended. The submitted Ecology reports have been considered by the North Yorkshire County Council Ecologist and their comments will be reported to Members at Committee.
- 4.32 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to conditions that the proposals be carried out in accordance with the mitigation measures set out above.

Affordable Housing

- 4.33 The applicant has confirmed that they are prepared to provide up to 40% affordable units on site unless they can demonstrate that this level of provision is unviable and this can be demonstrated at Reserved Matters Stage and that this would be secured via a Section 106 agreement. The developer should identify a partner Registered Provider at an early stage to confirm the number, size and tenure of the units.

- 4.34 The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Section 106 agreement.

Housing Mix

- 4.35 It is considered that the proposal could achieve an appropriate housing mix at reserved matters stage as identified in the SHMA, in accordance with Policy SP8 and the NPPF.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 4.36 The proposals will consider energy efficiency/sustainable design measures within the scheme in order to ensure a proportionate response to climate change.
- 4.37 The application site is located in Flood Zone 1 which is at low probability of flooding and the submitted Flood Risk Assessment and Drainage Strategy states that foul water would drain to the existing foul sewer in School Road. The Agent submitted confirmation that the surface water drainage arrangements would be to discharge to two watercourses to the south of the site. Given that these are IDB maintained watercourses they have requested that conditions be attached to any consent granted. The Lead Flood Authority and Yorkshire Water have deferred to the IDB with respect to surface water drainage arrangements. Yorkshire Water have however recommended conditions with respect to foul water drainage. The Environment Agency have raised no objections.
- 4.38 Having taken the above into account it is therefore considered that, subject to conditions a satisfactory drainage scheme could be brought forward to adequately address flood risk, drainage, climate change in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF.

Land Contamination

- 4.39 A Geo-environmental Appraisal was submitted and the Council's Contamination Consultant who have advised that the report is acceptable, no significant contamination was found, however the number of soil samples were limited therefore made ground should either be covered or removed to prevent future residents from coming into contact with it. As remedial works are required planning conditions are recommended.
- 4.40 The proposals, subject to conditions are therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Recreational Open Space

- 4.41 The Applicant has stated that they would provide either on site provision or off-site by way of a commuted sum. Since the adoption of CIL an off-site contribution would not be an appropriate mechanism to provide recreational open space and given the size of the site it would therefore be anticipated that recreational open space be provided as part of the scheme and this can be secured via S106

agreement.

- 4.42 It is therefore considered that the proposals are appropriate, subject to a Section 106 agreement and a scheme which accords with Policies RT2 of the Local Plan Policy SP19 of the Core Strategy and the NPPF can be secured at reserved matters stage.
- 4.43 Local residents have expressed concern with respect to the loss of an existing recreational use, however it is noted that the existing right of way and access along Chapel Balk Lane would be retained for recreational purposes and as such although the field itself would be lost this itself is not used for recreation and existing recreation facilities, although altered would be retained.

Education, Healthcare, Waste and Recycling

- 4.44 Residents have expressed concern with respect to the impacts on existing services within the village. The Healthcare Service were consulted but no response has been received. The NYCC Education Directorate has stated that a contribution would not be sought however this would be covered by CIL in any instance. With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this can be secured as part of a Section 106 Agreement.
- 4.45 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions SPD and CIL with respect to developer contributions.

Archaeology

- 4.46 An Archaeological Evaluation which includes the outcomes of trial trenching at the site has been submitted with the application and the Heritage Officer has stated that Roman deposits survive within the development plot and these are of significance as they appear to have a military connection and can advance our understanding of the Roman occupation of the area. The report suggests that the deposits are of some significance at least of regional interest. Although the archaeology is complex the report has not indicated that there are any extremely significant deposits such as a villa that would warrant preservation in situ and as such the Heritage Officer agrees that there is at least regional interest with some potential to be of national interest. An archaeological recording condition is therefore recommended.
- 4.47 The proposals are therefore considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

Other Issues

- 4.48 It is noted that local residents have expressed concern that an established hedgerow across site was burnt and removed, however it is noted that this is a matter which is with the Police.

- 4.49 Local residents have stated that the existing property contains asbestos. Amended plans demonstrate that the existing property would be retained and as such any asbestos should not be disturbed.

5.0 CONCLUSION

- 5.1 The proposed dwellings would be located outside the defined development limits of Hemingbrough and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposals to develop this land for residential purposes are therefore considered to be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle. Given that the Council have a 5 year housing land supply, there are no other material considerations of sufficient weight which would enable the Council to depart from the Development Plan.
- 5.2 The proposal would be located predominantly within the open countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for up to 60 dwellings when added to the 29 dwellings that have been built or approved would substantially exceed the minimum growth options of between 33-54 dwellings. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Hemingbrough and conflict with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan.
- 5.3 The proposals are considered to have a detrimental impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough, particularly the character of the 'gateway' approach into the village. Furthermore the proposals encourage additional future development pressure on land to the south which would adversely affect the character and setting of the village. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.

6.0 RECOMMENDATION

The application is recommended for REFUSAL for the following reasons:

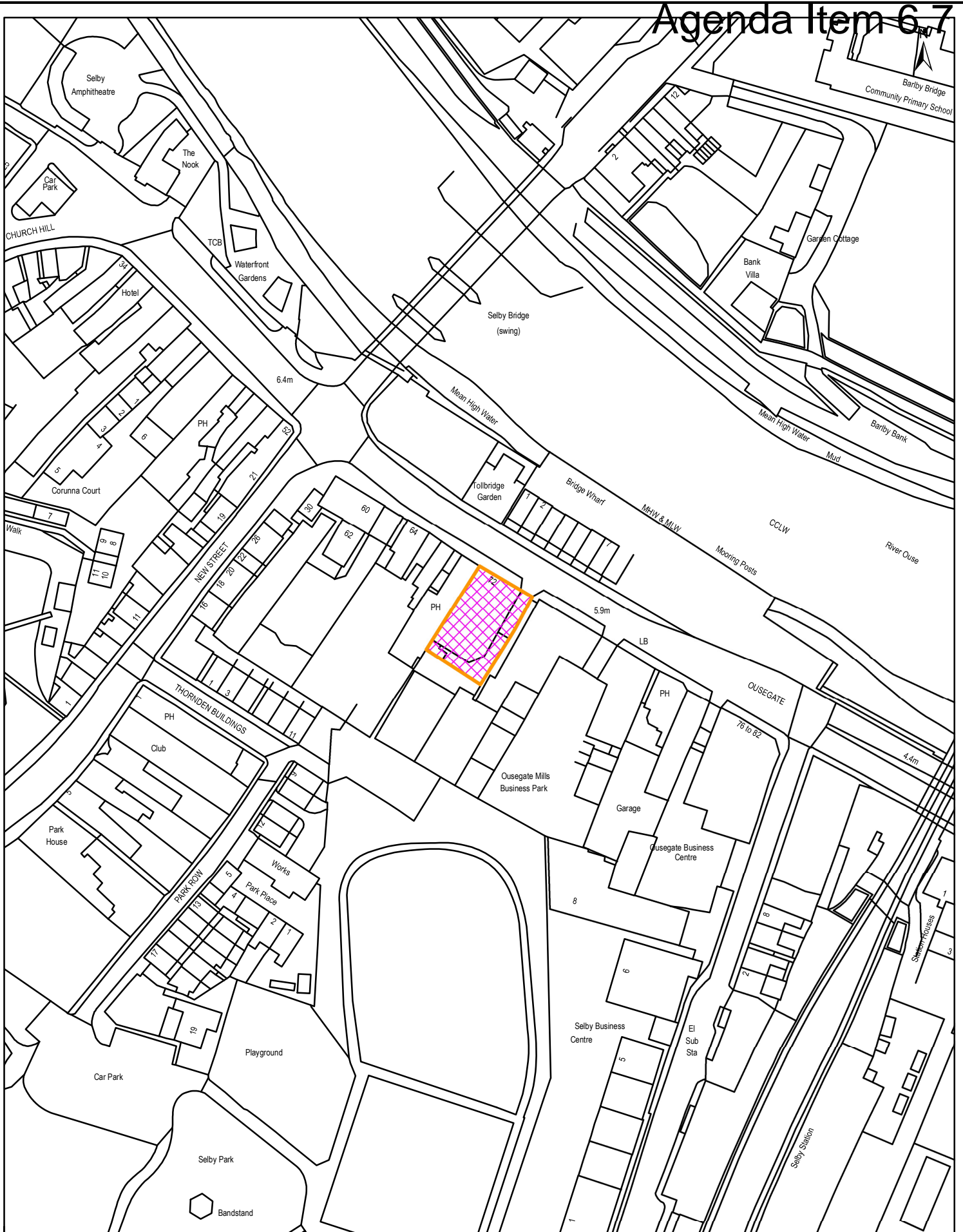
1. The proposed dwellings would be located outside the defined development limits of Hemingbrough and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The

proposals to develop this land for residential purposes are therefore considered to be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle. Given that the Council have a 5 year housing land supply, there are no other material considerations of sufficient weight which would enable the Council to depart from the Development Plan.

2. The proposal would be located partially within the open countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for up to 60 dwellings when added to the 29 dwellings that have been built or approved would substantially exceed the minimum growth options of between 33-54 dwellings. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Hemingbrough and conflicts with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan.
3. The proposals are considered to have a detrimental impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough, particularly the character of the 'gateway' approach into the village. Furthermore the proposals encourage additional future development pressure on land to the south which would adversely affect the character and setting of the village. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.

Contact Officer: Louise Milnes, Principal Planning Officer

Appendices: None



APPLICATION SITE

The Venue, 72 Ousegate, Selby
2016/1153/COU

1:1,250



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THE VENUE

72 OUSEGATE, SELBY
YO8 4NJ

PLAN



Stairs



Single door



Double door



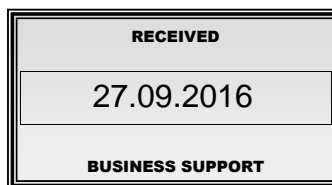
Electric Cupboard

SP

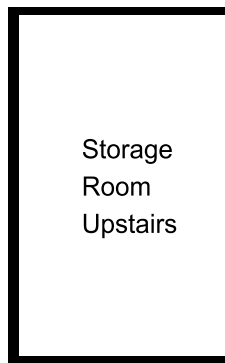
Sound Proofing

SCALE

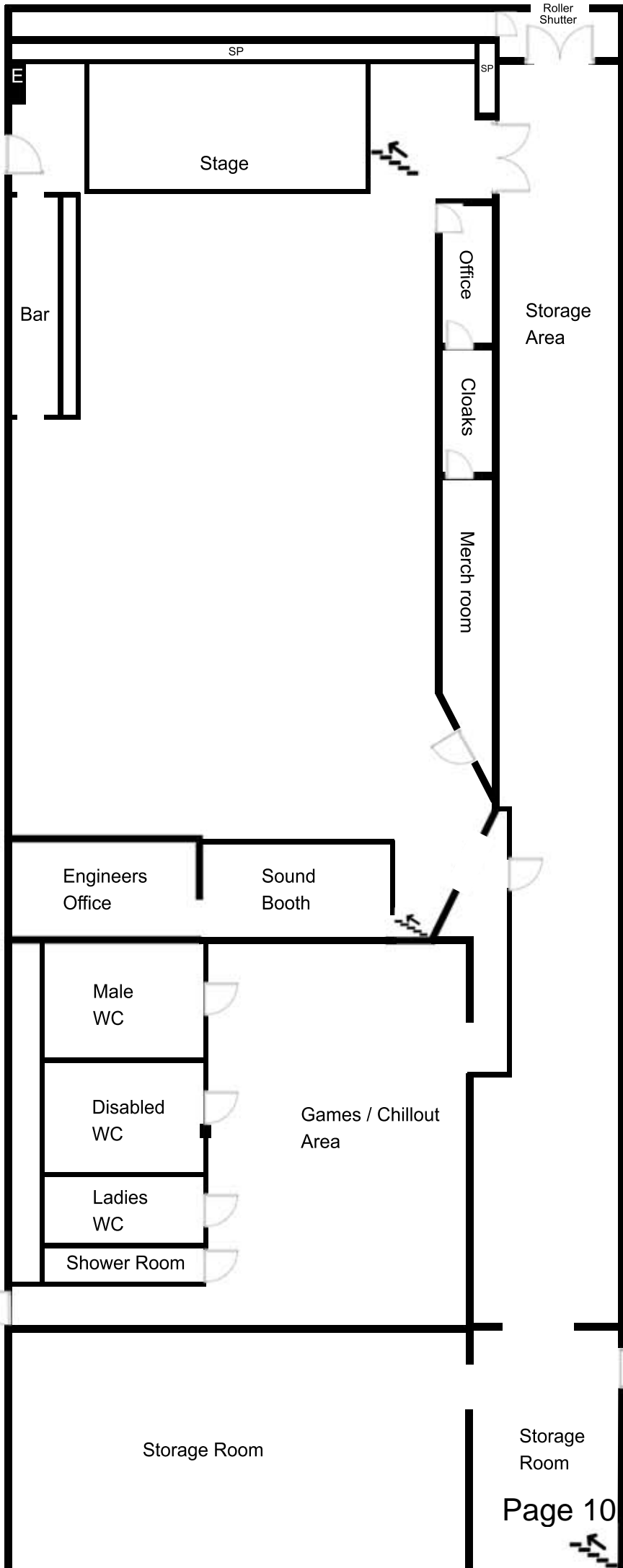
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First Floor



Storage Room
Upstairs



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Report Reference Number: 2016/1153/COU (8/19/373E/PA) Agenda Item No: 6.7

To: Planning Committee
Date: 9 May 2018
Author: Louise Milnes (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

| | | | |
|---------------------|---|-----------------------------|---------------------------------------|
| APPLICATION NUMBER: | 2016/1153/COU | PARISH: | Selby Town |
| APPLICANT: | Mr I Wright | VALID DATE: EXPIRY DATE: | 27 September 2016 22 November 2016 |
| PROPOSAL: | Retrospective change of use from A1 use (retail) to D2 (assembly and leisure) | | |
| LOCATION: | The Venue 72 Ousegate Selby YO8 4NJ | | |
| RECOMMENDATION: | Approve | | |

This application has been brought before Planning Committee in the interests of transparency and consistency.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The existing premises are located on Ousegate within Selby Town Centre. The building is a single storey flat roof structure with double roller shutter doors to the frontage. The existing shop front has been blocked up by timber boarding which is painted black. The application site is located within the Selby Town Conservation Area and sits between two Grade II Listed Buildings (The Riverside and St Leonards Hospice) with several other Listed Buildings located along Ousegate. There are a mix of retail/commercial and residential properties located either side of the existing property and to the rear of the application site. On the opposite side of Ousegate is a newly built residential development comprising seven two and three storey units with consents approved for further mixed use/retail/residential uses to the north west and north east on the opposite side of Ousegate. Further to this sits

the River Ouse and Selby Swing Bridge which is one of the main gateways into Selby.

- 1.2 A previous planning application (2014/0831/COU) for the retrospective change of use of the building from A1 (retail) to a mixed use of D2 (assembly and leisure) and night club (sui generis) was Refused on 20 July 2016. This application was refused on noise grounds. This current application has sought to provide additional information to overcome the previous reasons for refusal in regards to noise mitigation and does not seek permission for a night club as the previous proposal did.

The Proposal

- 1.3 The application seeks a retrospective change of use of the premises from A1 (retail) to D2 (assembly and leisure). The applicant has explained that the premises are currently used for a wide range of activities including parties and functions, live music events and festivals, sports events, theatre productions, indoor markets, dance and fitness classes, youth clubs and charity events. It is proposed that the hours of operation would be 11am to 1am Friday to Saturday and 11am to 11pm Sunday to Thursday. There would be a live music curfew of 11pm. The applicant has advised that following granting of planning permission the boards to the front of the building would be removed and the front of the building repainted with windows dressed.

Relevant Planning History

- 1.4 The following historical applications are considered to be relevant to the determination of this application:-

- An application (2014/0831/COU) for the retrospective change of use of the building from A1 (retail) to a mixed use of D2 (assembly and leisure) and night club (sui generis) was Refused on 20 July 2016 for the following reason:

‘Insufficient and inadequate information has been received in relation to the measurement and monitoring of noise levels when doors are open and closed, the frequency and distribution of noise, the break out of noise from the rear or the noise from people arriving and leaving, to adequately assess the impact on nearby residents. The scheme therefore fails to accord with Policy ENV1 (1) of the Selby District Local Plan, Policies SP13, SP14 and SP19 of the Core Strategy and the advice contained within the National Planning Policy Framework, which seek to create or maintain a good standard of amenity and encourage the health and well-being of town centres’.

The following applications should also be taken into account as they have been consented on the opposite side of Ousegate and include residential development which may be impacted by the proposals:

- An application (2010/0044/FUL) for the erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space was Approved on 16 March 2010 at a site to the north east of the application site. Although not yet constructed the Council confirmed that this

scheme has been implemented and there are outstanding applications for discharge of conditions currently being considered. It should be noted that the application included a Condition (16) which related to sound attenuation levels within the residential properties.

- An application (2015/0532/FUL) for a Section 73 consent for the variation and removal of conditions 3 (windows and doors), 8 (flood defence) and 12 (noise assessment) and removal of conditions 01 (time limits), 11 (air quality) relating to consent 2014/0470/FUL for the erection of 13 dwellings, bin and cycle stores and flood wall which was Approved on 14 August 2015 at the site opposite. Seven of these dwellings have been constructed with a further six due to be commenced shortly. The consent included Condition (9) relating to noise mitigation measures.
- An application (2017/0470/FUL) for the proposed erection of 6no. two bedroom terrace houses with integral flood defence was Approved on 7 November 2017. Given the relationship between this site and the application site this application was also considered by Planning Committee in the interests of transparency. This development is due to be commenced shortly and included a Condition (13) for a glazing specification to provide noise insulation to the properties taking into account noise from rail, traffic and lawful evening uses along Ousegate.

The following are also of relevance:

- An application (2017/1298/COU) for a retrospective change of use from sui generis (nightclub) to sui generis (dance hall) and D2 (assembly and leisure) is currently pending consideration.
- An application for listed building consent (2017/1358/LBC) for a retrospective change of use from sui generis (nightclub) to sui generis (dance hall) and D2 (assembly and leisure) is currently pending consideration.
- A temporary Stop Notice and Enforcement Notice were served on 28th July 2016 and the Stop Notice took effect on 31st July 2016. These related to the change of use of the building from A1 (retail) to a mixed use of D2 (Assembly and Leisure) and night club (Sui Generis) which was operating without the benefit of planning consent. The reasoning for issuing the notices was in response to the impacts on residential properties in close proximity in terms of noise, disturbance and late night activity in the area and the alterations to the shop front and the detrimental impact on the character and form of the conservation area and adjacent listed building.
- The temporary Stop Notice and Enforcement Notice were withdrawn on 28th August 2016. This was on the basis of the harm to residential amenity due to noise from The Venue being mitigated and agreement sought on the submission of new planning application to address previous concerns.

2.0 CONSULTATION AND PUBLICITY

The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper.

- 2.1 **Selby Town Council** – No response received.
- 2.2 **North Yorkshire County Council Highways** – No objection subject to a condition relating to doors and windows not opening out onto the highway.
- 2.3 **Selby Civic Society** – If this application is approved it should be made a condition that the shop front be re-opened and refurbished tastefully to be a credit to Selby and its Conservation Area.
- 2.4 **Canal and River Trust** – No comments.
- 2.5 **Environmental Health** – Still do not have sufficient information to determine the impact on residential receptors of noise.
- 2.6 **Council's Noise Consultant** – There are various issues with the noise information submitted: 1) the noise sensitive receptors identified in the noise report do not include all of the receptors that should be considered, 2) the assessment does not make reference to appropriate standards of guidance for noise, 3) the survey is not sufficient to quantify the likely levels of noise that would be experienced at the nearest noise sensitive receptors, 4) no consideration has been given to low frequency noise, 5) no consideration has been given to noise levels from customers. Would therefore recommend that the points are addressed and the noise assessment updated. A further update will be provided to Members at Planning Committee.
- 2.7 **Neighbours** – Four letters of representation were received. Three letters raise objections to the proposals. One of the letters is from the development company responsible for the residential development opposite, one letter is from the company acting on behalf of the developers of the site to the north west, with one letter being from a resident occupying the residential property above The Station Public House. The issues raised can be summarised as follows:
- The application is a re-run of a previous application refused by Planning Committee.
 - The operation is unlawful and the stop notice was withdrawn for reasons unknown.
 - There are issues with noise monitoring and reliability of data used to support the noise survey.
 - Application fails to address how many people the venue can accommodate.
 - Delivery of equipment could have parking issues.
 - Advertising of future gigs are offensive and do not preserve or enhance the conservation area.
 - The Venue has significant impact through noise and suitable mitigation is required to ensure that there is no loss in amenity to neighbouring properties.
 - Neighbours have suffered sleepless nights for 2 years until gone 4.30am with music and noise from people outside The Venue.
 - Crowds outside block the pavement and road which needs controlling with doormen and cordoning off half the pavement.
 - Potential trouble due to alcohol.

1 letter supports the proposals for the following reasons:

- The Venue provides a much needed leisure and entertainment facility for Selby covering a wide range of events and functions and a space for people to hire for private celebrations.
- It brings much needed revenue to the town both for itself and various supporting businesses that its customers frequent, providing employment and boosting the economy.
- It provides a valuable social hub for customers of all ages due to the range of activities.
- Understand that work has been undertaken at some expense to reduce noise levels.
- There has been live music at this location for many years.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

3.1 The application site is located within Selby Town Centre, within the Selby Commercial Zone and in a Special Policy Area. It lies within a British Waterways Buffer and is within Flood Zone 2 which has medium probability of flooding. Furthermore the property is within the Selby Town Conservation area, adjacent to a number of Grade II Listed Buildings and is within the archaeological consultation zone.

3.2 National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

3.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

3.5 The relevant Core Strategy and saved Policies are:

| | |
|-------------|--|
| Policy SP1: | Presumption in favour of Sustainable Development |
| Policy SP2: | Spatial Development Strategy |

| | |
|--------------|--|
| Policy SP13: | Scale and Distribution of Economic Growth |
| Policy SP14: | Town Centres and Local Services |
| Policy SP15: | Sustainable Development and Climate Change |
| Policy SP18: | Protecting and Enhancing the Environment |
| Policy SP19: | Design Quality |

Selby District Local Plan

3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004 applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.7 The relevant Selby District Local Plan Policies are:

| | |
|---------------|---|
| Policy ENV1: | Control of Development |
| Policy ENV2: | Environmental Pollution and Contaminated Land |
| Policy ENV25: | Development in Conservation Areas |
| Policy T1: | Development in relation to the Highway Network |
| SEL/6: | Special Policy Area: New Street/Ousegate/Station Road |

Supplementary Planning Documents

3.8 The relevant Supplementary Planning Documents are:

Selby Town Design Statement

4.0 APPRAISAL

4.1 The main issues to be taken into account when assessing this application are:

- Principle of development
- Impact on Heritage Assets
- Impact on Residential Amenity
- Impact on the Highway
- Flood Risk, Drainage and Climate Change
- Other Issues

Principle of development

4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework and sets out how this will be undertaken.

4.3 Policy SP2A states that Selby as the Principal Town will be the focus for the majority of new development including employment, retail, commercial and leisure facilities. Policy SP13 supports economic growth and opportunities for recreation and leisure uses, whilst Policy SP14 states that the role and performance of the

existing town centre of Selby will be strengthened by ensuring proposals comply with existing national policy to protect existing retail, service and leisure facilities and aims to provide for the expansion and diversification of town centre uses within the established retail hierarchy whilst requiring proposals to provide a high quality, safe environment and environmental improvements amongst other criteria. Furthermore the application site is located within a Special Policy Area where a mixed of retail, tourism, leisure and residential uses are supported.

- 4.4 The above policies align with the objectives of the NPPF to ensure the vitality of town centres.
- 4.5 The proposal is for the retrospective change of use from A1 (retail) to D2 (assembly and leisure). The application site is located within Selby Town Centre and within the main Commercial Zone and within the Ousegate/New Street/Station Road Special Policy Area. The use is appropriate to a town centre location and provides a range of activities as set out in Paragraph 1.2 which supports both the daytime and night-time economy of Selby. The proposal therefore complies with Policy SEL/6 of the Local Plan, Policies SP2A, SP13 and SP14 of the Core Strategy and the NPPF with respect to the principle of development.

Impact on Heritage Assets and Conservation Area

- 4.6 Although the application is not accompanied by a Heritage Statement, the Supporting Statement acknowledges that the site is within a Conservation Area and adjacent to Grade II Listed Buildings. The applicant acknowledges that the existing building is of limited value in itself and the boarded up frontage of the property is considered to be poor. The application does not include alterations to the shopfront itself, however the applicant states that upon granting of planning permission the existing boards will be removed to reveal the existing shop front and a display area will be created. These measures would be welcomed in order to improve the visual appearance of the building and its contribution to the appearance of the conservation area on a site which is located close to one of the main gateways into Selby Town. It should be noted that as the current frontage does not benefit from planning permission, no consent would be required for the removal of the boarding in order to return the shopfront to its original state. However given concerns from the Selby Civic Society, local residents and in order to ensure compliance with Policy SEL/6 which states that proposals should protect and enhance the special character and appearance of the area it would be considered reasonable to attach a condition requiring the shop front to be restored.
- 4.7 As there are no external alterations associated with the change of use this alone is not considered to have any significant impact and therefore the character and appearance of the Conservation Area is preserved and there is no harm to the setting of the adjacent Listed Buildings. The change of use does not therefore conflict with Policies ENV1 and ENV25 of the Selby District Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.
- 4.8 The Council were led to believe that there may have been a link through from The Venue to the Riverside Public House which is a Grade II Listed Building. The applicant has stated that this has been blocked up and the Council's Enforcement Officer is to confirm whether this is the case and Members will therefore be given an update on this issue. If there is a link there would be impacts on the Listed Building

which would need to be considered further and Members will be updated on this matter. It is considered that a planning condition should be attached to any permission granted to ensure that any openings are block up permanently and no new openings are inserted.

- 4.9 Although the application site is located within an archaeological consultation zone there would be no impacts arising from the proposals given that there are no ground disturbing works involved. The proposals are therefore acceptable in terms of their impacts on archaeology.

Impact on Residential Amenity

- 4.10 The key issue with respect to impacts on residential amenity arise from noise and disturbance on residential properties within the immediate vicinity of the site.
- 4.11 Members will note that there has been a previous refusal at this site, it should however be noted that since the previous refusal a number of amendments have been made which include an amendment to the description to remove reference to the property being used as a nightclub and a reduction in the proposed hours of operation to 11am to 1am Friday to Saturday and 11am to 11pm Sunday to Thursday. The applicants have also stated that there would be a live music curfew of 11pm. It should be noted that the proposed hours do not accord with the current licensing hours for this property which are currently 11am to 4am and this would therefore need to notified to the Licencing Committee should consent be granted.
- 4.12 Furthermore the applicants have stated that there are other management measures in place at the premises to limit noise and disturbance which are included within the licence and these cover:
1. signage informing patrons to leave quietly;
 2. carrying out observations in the vicinity of the properties at the houses opposite, near Station Public House and residential properties to the rear on at least hourly intervals between the beginning and the end of the music entertainment (live music, karaoke or DJs playing recorded music) in order to establish whether there is noise break out from the premises;
 3. If observations reveal noise break out at a level likely to cause a disturbance to occupants then the volume shall be reduced to a level that does not cause disturbance;
 4. A record of these observations shall be kept;
 5. All amplified sound sources (including live performances from the premises will go through a noise limiting device;
 6. No external doors to the room where regulated entertainment is being provided shall be open during the course of entertainment, other than for normal access and egress;
 7. When there is regulated entertainment on any Friday or Saturday evening there shall be a minimum of one Door Supervisor on from 20.00 hours until close of business and a further Supervisor for every 100 customers. On Sunday to Thursday there will be one Supervisor if there are over 100 customers and on Sunday and Monday on Bank Holiday weekends and any evening before a Bank Holiday; and
 8. No drinks to be taken out of the premises onto the pavement or highway.

- 4.13 Since the previous application was refused the Council have worked proactively with the applicant and various meetings have been held whereby the applicant has been provided with the Environmental Health Officer's noise readings and have been given a list of explicit requirements for the submission of further noise information. A Noise Assessment by Dragonfly Consulting referenced DC2181-R1 dated August 2016 is submitted with the application together with a letter dated 26 September 2016 by Dragonfly consulting, however the Council's Environmental Health Officer considers that this does not provide any additional information beyond that considered under the previous refusal nor does it address the list of requirements discussed.
- 4.14 The Council have sought further advice with respect to the impacts of noise and mitigation from a specialist Noise Consultant who also raises various concerns with the information submitted. Firstly the noise report discounts the newly constructed residential properties on the opposite side of Ousegate as noise sensitive receptors as the applicants believe that they were expected to have noise mitigation measures incorporated. The Council sought Counsel Opinion with respect of this and this advice confirms that whilst some noise mitigation measures were incorporated into the consent for the residential properties opposite it is reasonable to require noise arising from the currently unlawful activities at The Venue to be controlled by the owners/operators and as such the houses opposite should be considered as noise sensitive receptors and included within any noise assessment.
- 4.15 Secondly the Noise Consultant notes that there is no consideration of noise arising from customers in the vicinity of The Venue and the Planning Practice Guidance on Noise (PPG-N) makes clear that on developments of this nature this should be taken into account.
- 4.16 Although noise measurements were taken and reported in the Noise Survey these were for a duration of 6 minutes during the day which is not considered sufficient to adequately characterise the noise break out from The Venue given that internal noise levels are likely to vary. In addition the internal and external noise measurements were taken at difference times therefore noise from inside The Venue cannot be separated from other external noise sources such as road and rail traffic. In addition no consideration has been given to low frequency noise which is likely to be associated with live music.
- 4.17 Furthermore the Noise Consultant is concerned that should the existing boarding of the shop front be removed then this is also likely to reduce the sound insulation of the building envelope and may worsen the situation.
- 4.18 A meeting was held with the Council, the Council's Noise Consultant and the Applicant in January 2018 where it was agreed that the above information would be provided and the Applicant agreed that they would undertake further sound insulation measures behind the shop frontage. Subsequent to this meeting the Applicant has stated that he will not provide any further information and wishes the application to be determined on the basis of the information submitted.
- 4.19 Having carried out a further consultation with the Noise Consultant they have stated the noise measurements presented originally were not sufficient to demonstrate what levels of noise breaking out from the development are during live music events and it is therefore not possible to estimate the sound insulation that the building is

providing or what the correct level for any noise limiter is. He has however stated that Conditions could be included to cover the following:

1. A requirement for the applicant to set out the noise insulation measures for the building to be submitted and approved to the Council;
2. A requirement for simultaneous internal and external noise measurements to be undertaken and to be submitted and approved by the Council;
3. Following approval of this requirements for the noise limiter to be set;
4. Securing a Management Plan as a way of controlling the potential noise impacts of people coming and going from the venue.

4.20 Taking into account the above and the remits of the current licence for the premises, if all the above measures were conditioned together with conditions restricting the hours of use and the uses within the building, and the conditions are subsequently discharged, it is considered that there would be sufficient measures in place by which to ensure that existing residents would be protected from noise. Given that the use is currently operating unlawfully it would be considered reasonable and necessary for the requirements of the conditions to be discharged within a 3 month period. In addition given the conflict between the hours proposed on this application and those contained within the licence a hours condition would be recommended. In addition Members are being asked for authority for this to be notified to the Licensing Committee in order that any future licence can consider the change in hours proposed under the planning consent.

Impact on the Highway Network

4.21 Comments from local residents regarding parking have been noted however it should be noted that this is a Town Centre site whereby parking would not be necessary given access to on-street car parking and public car parks. Furthermore there are no parking restrictions immediately outside the property which enables loading and unloading. North Yorkshire County Council have been consulted on the application, however they raise no objections to the proposals with respect to the impacts on the existing highway network including impacts arising from parking subject to a condition to prevent doors opening onto the public highway. Having had regard to the nature of the proposals for a change of use it is not considered that this condition is reasonable or necessary.

4.22 Given the above it is considered that the proposals are acceptable in respect of their impact on the existing highway network in accordance with Policies ENV1, T1, and SEL/6 of the Selby District Local Plan and SP19 of the Core Strategy.

Flood Risk, Drainage, Climate Change and Energy Efficiency

4.23 The application site is located within Flood Zone 2 which is at medium risk of flooding. The NPPF paragraph 104 States that "Applications for minor development and changes of use should not be subject to the Sequential or Exception Tests but should still meet the requirements for site-specific flood risk assessments". The retrospective scheme is for change of use of the building from A1 (retail) to D2 (assembly and leisure) which does not include any external changes and therefore a sequential and exception test is therefore not required in this instance.

- 4.24 A Flood Risk Assessment was submitted together with a Supporting Statement which confirms that the proposed use is considered to be less vulnerable to flooding according to the Flood Risk Vulnerability Classification set out in the PPG. It further confirms that there are no changes to floor levels and it is not considered that individuals using the building would not be placed at risk as the proposals will not increase the risk of flooding due to the status quo being maintained. The proposals are therefore in accordance with the advice contained within the NPPF and PPG.
- 4.25 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal for a change from A1 to D2 it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria SP15 (B) of the Core Strategy. Therefore having had regard to policy SP15 (B) it is considered that the proposal is acceptable.

Other Issues

- 4.26 An objector raises the issue that the application fails to address how many people The Venue can accommodate, although this is not specified in the application the applicant has to comply with relevant health and safety regulations and the licence agreement with respect to this. Impacts arising from noise from customers are addressed in the residential amenity section above.
- 4.27 An objector has raised potential trouble outside the venue due to alcohol. The applicants have set out their management measures to control people leaving the building and have therefore demonstrated how they can control these, however issues that arise once people have dispersed away from the building would become a police matter.

Legal Issues

- 4.28 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 4.29 Human Rights Act 1998: It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.
- 4.30 Equality Act 2010: This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

- 4.31 Financial issues are not material to the determination of this application.

5.0 CONCLUSION

- 5.1 On balance the proposals are acceptable in principle given that they are located within Selby Town Centre and would add to the vitality of the Town Centre through offering a mix of uses both during the daytime and evening. The proposal would introduce further controls and improvements to the shop front with the boards to the front of the building being removed and the front of the building being repainted with windows dressed. These improvements would improve and enhance the character and appearance of the Conservation Area. Furthermore the proposals are acceptable with respect to their impacts with respect to heritage assets and highways and adequately deal with issues of flooding and climate change.
- 5.2 In terms of the impacts on residential amenity it is considered appropriate conditions together with those set out within the current licence should ensure that there would be sufficient measures in place by which to ensure that existing residents would be protected from noise.

6.0 RECOMMENDATION

This application is recommended to be APPROVED subject to:

- Notifying the Licensing Committee with the request that the planning consent and associated conditions be taken into account in the granting of future licences for the operation of the premises.
 - That the decision is subject to the conditions worded as below (or subject to minor modification):
1. Within six weeks of the date of this permission an assessment of the simultaneous internal and external noise measurements from the development shall be submitted to and approved in writing by the Local Planning Authority. Measurements should as a minimum include the octave bands from 63 Hz to 8kHz.

If the assessment indicates that noise from the development is likely to affect neighbouring residential properties then a detailed scheme of noise attenuation measures shall be submitted alongside the noise assessment and shall be approved by the Local Planning Authority. This shall include the following:

- a) Details of a noise limiting device to be fitted to any PA or amplification equipment used at the site;
- b) Details of the noise level to which the noise limiting device shall be set. The noise level used shall be based upon a background noise level survey undertaken between the hours of 22.00 hours and 1.00 hours on a Friday or Saturday and shall accord with the methodology in BS4142 and in line with the NPSE, NPPF and PPG-N; and
- c) The procedure to be followed in the event that there is a complaint about noise from the site including reviewing the levels used on the noise limiting device.

The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of neighbouring noise sensitive premises by noise from the development, shall be carried out by a suitably qualified acoustic consultant/engineer and the noise limiting device shall be employed at all times

when PA or amplification equipment is used at the site and shall be set at the level identified under part b).

The approved scheme shall thereafter be implemented within 3 months of the date of this permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of protecting residential amenity.

2. The proposed use of the premises shall be in full accordance with the following Management Measures:

- Signage informing patrons to leave quietly shall be displayed at all times within the entrance of the Venue;
- Noise observations immediately outside the houses opposite, the Station Public House and the residential properties to the rear (Thornden Buildings) shall be carried out on at least hourly intervals between the beginning and the end of any music entertainment (live music, karaoke or DJs playing recorded music) in order to establish whether there is audible noise break out from the premises;
- If observations reveal audible noise break out at a level likely to cause a disturbance to occupants then the volume shall be reduced to levels in octave bands from 63 Hz to 8kHz as set out in Condition 1 of the consent.
- A record of these observations shall be kept in a log for that purpose, such a log shall be completed immediately after the observation detailing the time, location and duration of observation, the level of noise break out and any action taken to reduce noise breakout and such a log must be made available at all times upon request;
- All amplified sound sources (including live performances) from the premises will go through noise limiting devices;
- No external doors to the room where regulated entertainment is being provided shall be open during the course of entertainment, other than for normal access and egress;
- When there is regulated entertainment on any Friday or Saturday evening there shall be a minimum of one Door Supervisor on from 20.00 hours until close of business and a further Supervisor for every 100 customers. On Sunday to Thursday there will be one Supervisor if there are over 100 customers and on Sunday and Monday on Bank Holiday weekends, any evening before a Bank Holiday; and
- No drinks shall be taken out of the premises onto the pavement or highway.

Reason:

In the interests of protecting residential amenity.

3. Within six weeks of the date of consent being granted the existing opening between the Venue and the Riverside Public House shall be permanently blocked up within the application site and no further openings shall be inserted.

Reason:

In the interests of protecting the Grade II Listed Building, the Riverside Public House.

4. The use hereby permitted shall not be open to customers outside the hours of 11.00hours to 1.00hours Friday to Saturday and 11.00hours to 23.00hours Sunday to Thursday, with no live music permitted at the premises after 23.00hours.

Reason:

In the interests of protecting residential amenity.

5. Within six weeks from the date of consent being granted a scheme for improvements to the existing shop frontage of the property shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the approved details within three months from the date of consent being granted.

Reason:

In the interests of enhancing the character and appearance of the conservation area in accordance with Policies ENV1 and ENV25 of the Local Plan and Policies SP18 and SP19 of the Core Strategy.

6. The use hereby permitted shall be restricted to the following D2 uses: parties and functions, live music events and festivals, sports events, theatre productions, indoor markets, dance and fitness classes, youth clubs and charity events and for no other purpose.

Reason:

For the avoidance of doubt given that the application has been assessed on the basis of these events and for no other purposes.

7. The development shall be carried out in accordance with the following plans:

LOC01 Location Plan

Reason:

For the avoidance of doubt.

Contact Officer: Louise Milnes (Principal Planning Officer)

Appendices: None

Glossary of Planning Terms

Community Infrastructure Levy (CIL):

The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

Curtilage:

The curtilage is defined as the area of land attached to a building.

Environmental Impact Assessment (EIA):

Environmental impact assessment is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. The requirements for, contents of and how a local planning should process an EIA is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

National Planning Policy Framework (NPPF):

The National Planning Policy Framework was published on 27 March 2012 and sets out Government planning policies for England and how these are expected to be applied.

Permitted Development (PD) Rights

Permitted development rights allow householders and a wide range of other parties to improve and extend their homes/ businesses and land without the need to seek a specific planning permission where that would be out of proportion with the impact of works carried out. Many garages, conservatories and extensions to dwellings constitute permitted development. This depends on their size and relationship to the boundaries of the property.

Previously Developed Land (PDL)

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously developed land may occur in both built-up and rural settings.

Planning Practice Guidance (PPG)

The Planning Practice Guidance sets out Government planning guidance on a range of topics. It is available on line and is frequently updated.

Recreational Open Space (ROS)

Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure.

Section 106 Agreement

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They can be used to secure on-site and off-site affordable housing provision, recreational open space, health, highway improvements and community facilities.

Site of Importance for Nature Conservation

Site of Nature Conservation Interest (SNCI), Site of Importance for Nature Conservation (SINC) and regionally important geological sites (RIGS) are designations used by local authorities in England for sites of substantive local nature conservation and geological value.

Site of Special Scientific Interest (SSI)

Sites of special scientific interest (SSSIs) are protected by law to conserve their wildlife or geology. Natural England can identify and designate land as an SSSI. They are of national importance.

Scheduled Ancient Monument (SAM):

Ancient monuments are structures of special historic interest or significance, and range from earthworks to ruins to buried remains. Many of them are scheduled as nationally important archaeological sites. Applications for Scheduled Monument Consent (SMC) may be required by the Department for Culture, Media and Sport. It is an offence to damage a scheduled monument.

Supplementary Planning Document (SPD)

Supplementary Planning Documents are non-statutory planning documents prepared by the Council in consultation with the local community, for example the Affordable Housing SPD, Developer Contributions SPD.

Tree Preservation Order (TPO):

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

Village Design Statements (VDS)

A VDS is a document that describes the distinctive characteristics of the locality, and provides design guidance to influence future development and improve the physical qualities of the area.



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